THE

BENGAL LEGISLATIVE COUNCIL

PROCEEDINGS.

(Official Report.)

ELEVENTH SESSION.

1923.

VOLUME XI—No. 4.

(2nd, 5th to 7th March, 1923.)

BENGAL LEGISLATIVE
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A

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B

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C

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F

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G

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H

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J

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K

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Khan Chaudhuri, Khan Bahadur Maulvi Md. Brshad Ali. [Rajshahi North (Muhammadan).]

L

Law, Raja Reshee Case. (Bengal National Chamber of Commerce.)
Leslie, Mr. W. L. (Calcutta Trades Association.)

M

Maharajadhiraja Bahadur of Burdwan, the Hon'ble. (Member, Executive Council.)
Makramali, Munshi. [Noakhali (Muhammadan).]
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Mukharji, Babu Satish Chandra. [Hooghly *cum* Howrah Rural (Non-Muhammadan).]
Mukherjee, Babu Nitya Dhon. [Hooghly Municipalities (Non-Muhammadan).]
Mukherji, Professor S. C. (Nominated Non-official—The Indian Christian Community.)
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Mullick, Babu Nirode Behary. [Bakarganj South (Non-Muhammadan).]

N.

Nakey, Mirza Muhammad Ali. [24-Parganas Municipal South (Muhammadan).]
Nasker, Babu Hem Chandra. [24-Parganas Rural Central (Non-Muhammadan).]

P

Pahlowan, Maulvi Md. Abdul Jubbar. [Mymensingh West (Muhammadan).]
Philip, Mr. J. Y. (Bengal Chamber of Commerce.)
Poddar, Babu Keshoram. (Bengal Marwari Association.)

R

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Roy, Raja Maniloll Singh. [Burdwan (Non-Muhammadan).]
Roy Chaudhuri, Babu Sailaja Nath. [Khulna (Non-Muhammadan).]

S

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Suhrawardy, Mr. Huseyn Shaheed. [Burdwan Division South (Muhammadan).]

T

Travers, Mr. W. L. [Rajshahi (European).]

V.

Villiers, Mr. F. E. E. [Presidency and Burdwan (European).]

THE BENGAL LEGISLATIVE COUNCIL PROCEEDINGS.

(Official Report of the Eleventh Session.)

VOLUME XI—No. 4.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE Council met in the Council Chamber in the Town Hall, Calcutta, on Monday, the 2nd March, 1923, at 3 P.M.

Present:

The Hon'ble the President in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers, and 92 nominated and elected members.

Unstarred Questions

(answers to which were laid on the table).

Provincializing Sirajganj Madrassa.

421. SHAH SYED EMDADUL HAQ: (*a*) Is the Hon'ble the Minister in charge of the Department of Education aware that the Sirajganj senior Madrassa is the only senior Madrassa in the Rajshahi division and is fulfilling the need of a Government senior Madrassa?

(*b*) Is the Hon'ble the Minister aware that every other division has got a Government senior Madrassa?

(*c*) Are the Government considering the desirability of provincializing the Sirajganj Madrassa for the Rajshahi division?

MINISTER in charge of DEPARTMENT of EDUCATION (the Hon'ble Mr. P. C. Mitter): (*a*) Yes.

(*b*) Yes.

(*c*) Government have considered the question of provincializing the Sirajganj Madrassa, but in the present state of their finances, they are not prepared to accept the proposal.

Kala-azar in Patuakhali.

422. Maulvi FAZLAL KARIM: Will the Hon'ble the Minister in charge of the Department of Local Self-Government be pleased to state—

(*i*) whether he is aware of any epidemic of fever in the Patuakhali subdivision during last six months;

(*ii*) if so, what steps were taken to combat the disease;

(*iii*) what are the results of the steps taken, if any;

(*iv*) what steps did the district board take in the matter;

(*v*) how often did the Health Officer of Bakarganj visit the affected areas;

(*vi*) whether any steps were taken by the district board to check the work of the officers deputed to treat the people;

(*vii*) whether the Hon'ble the Minister is aware of the prevalence of kala-azar in the Bakarganj district and especially in the Patuakhali subdivision; and

(*viii*) if so, what steps have been taken to combat the disease?

MINISTER in charge of DEPARTMENT of LOCAL SELF-GOVERNMENT (the Hon'ble Sir Surendra Nath Banerjea): (*i*) and (*vii*) Yes.

(*ii*) and (*iv*) The district board of Bakarganj deputed three extra doctors and three compounders with the necessary medicines to the affected areas. The doctors and compounders attached to the board's dispensaries were also instructed to give special attention to persons suffering from fever who might come to the district board dispensaries as well as to visit and treat all fever cases, free of charge, in the adjoining villages within a radius of five miles from the respective dispensaries. Leaflets containing instructions were also distributed in the affected areas. The Assistant Director of Public Health, Dacca Circle, also made local investigation into the causes of the outbreak. The District Health Officer visited the affected area and with the other doctors distributed quinine.

(*iii*) The epidemic abated within three months. One doctor and three compounders are still attending a residuum of cases in the affected parts.

(*v*) On three occasions. He has again been deputed to the spot.

(*vi*) The Health Officer supervised the work of the special doctors and compounders. These officers as well as the staff attached to the board's dispensaries submitted weekly returns showing the names of affected villages, number of cases and of deaths, number cured, etc., in each village which afforded the Health Officer and the Chairman of the district board some means of checking their work and watching the progress of the epidemic.

(viii) The kala-azar staff under the Public Health Department visited many villages in various parts of the district, including the Patuakhali subdivision. Besides submitting reports to headquarters, they demonstrated the presence of the disease to local medical men and taught them how to recognise cases and treat them. The local authorities were also advised as to the measures to be taken for the abatement of the disease. The district board have instructed their dispensary doctors to give special attention to the treatment of kala-azar cases both at the dispensaries and in the course of their private practice. Necessary medicines and apparatus were supplied to the various dispensaries, and leaflets containing hygienic instructions were circulated through the Health Officer. At the district headquarters arrangements were made by the Health Officer in consultation with the Civil Surgeon for better diagnosis and treatment of patients suffering from the disease. A microscope has been ordered and the Health Officer has been allowed the services of an extra medical officer. Systematic reports are now being received. It is proposed to make special arrangements for treatment in badly affected areas when accurate reports are obtained.

Water scarcity in Goila (Bakarganj).

423. Babu HEM CHANDRA BHATTACHARJI: (a) Is the Hon'ble the Minister in charge of the Department of Local Self-Government aware that there is great scarcity of good drinking water in the interior villages of the Sadar subdivision of the Bakarganj district such as village Goila?

(b) What steps, if any, are the Government taking to remedy this?

The Hon'ble Sir SURENDRA NATH BANERJEA: (a) and (b) Government have no special information on this matter. It is primarily the function of the local bodies to deal with local water supplies.

Amusements tax receipts.

424. SHAH SYED EMDADUL HAQ: Will the Hon'ble the Member in charge of the Department of Finance be pleased to state the amount of receipts from the Amusements tax in respect of—

(i) theatres,

(ii) cinematographs,

(iii) exhibitions,

(iv) circuses, and

(v) other classes of entertainments,

in accordance with the provisions of section 3 of the Bengal Amusements Tax Act, 1922, under each of these headings, month by month, from the 1st October to 31st December, 1922?

MEMBER in charge of DEPARTMENT of FINANCE (the Hon'ble Mr. J. Donald): A statement is laid on the table.

Statement referred to in the reply to unstarred question No. 424, showing the receipts from the Amusements Tax in respect of the various classes of entertainments under section 3 of the Bengal Amusements Tax Act, 1922, from the 1st October, 1922, to the 31st December, 1922.

	October			November			December.			Total.		
	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.
Theatres ...	6,039	7	0	5,024	2	0	10,033	10	0	21,097	3	0
Cinematographs ...	17,877	2	0	22,991	12	0	7,240	12	0	48,109	10	0
Exhibitions ...	...			...			...			...		
Circuses ..	5	14	0	...			6,610	14	0	6,616	12	0
Other classes of entertainments	29,971	1	3	16,467	10	5	17,458	12	0	63,897	7	8
Total ...	53,893	8	3	44,483	8	5	41,344	0	0	1,39,721	0	8

Government Bill.

The Calcutta Municipal Bill, 1921.

CLAUSE 231.

Babu JATINDRA NATH BASU: I move that in clause 231—

"(1) in lines 2 and 3, for the words 'shall not be directly connected to any hut, but' the following be substitued, namely:—
'may be directly connected to any hut, and'

(2) the proviso be omitted."

The object of this amendment is to give authority to the Corporation to allow filtered water connection to huts. A considerable portion of the population of Calcutta lives in huts. In framing the Calcutta

Municipal Act we should see that the poor people are given the same municipal conveniences as are given to the rich. In a tropical city like Calcutta water is almost as much a necessity as air, and we should give the people as much water as it is possible for us to give them. It is the poorer class of the people that need water more than the rich. Those who are connected with the administration of charitable relief and charitable organizations in Calcutta know that a large number of the poor *bhadralok* class lives in these huts. They belong to the Hindu as well as the Mussalman communities, and a great many of these poor families observe the *purdah* system. It will be a matter of great inconvenience to them if no filtered water connection is allowed to the huts they live in. I propose, therefore, to modify clause 231, so that the Corporation may allow filtered water connections to be extended to the huts.

Dr. PRAMATHANATH BANERJEA: I desire to support this amendment. As my friend, Babu Jatindra Nath Basu, has pointed out, a large number of middle class men live in these huts. As the *purdah* system prevails among them, it is very inconvenient for them to go to the water tap in the street to obtain their water. Besides, I do not see why any distinction should be drawn between the poor and the rich in the town of Calcutta. I hope, therefore, that this amendment will be accepted by the Government.

Babu SURENDRA NATH MALLIK: You will be pleased to notice that there is a proviso attached to this clause. The proviso reads: "Provided that, in special circumstances, the Corporation may supply a direct filtered water connection to a hut on such conditions as they may impose, and subject to such rules as may be made by them in this behalf."

The idea of the Corporation is not to shut out the hut owners from getting water, not in the least. We do realize that they require as much water as the owners of buildings do. But the only reason is that it would be possible for the Corporation to have control over the sanitary condition of these huts. We cannot give filtered water connection to these huts unless there are the drainage and other things provided for the purpose, otherwise it will be a source of great danger from a sanitary point of view. That is the idea with which this has been done.

There is no question that we want to help only the rich and not the poor, we want to help everybody, so we have put in this proviso. As a matter of fact, even under the present law we can and do give it to these huts as far as possible, when we find that there is provision for drainage, so that water can be carried off and is not allowed to stagnate in the courtyard and make the whole place unhealthy.

Therefore I do not think that there is any particular point in my friends asking for this alteration in view of the proviso that has been put down which permits a connection in a house directly, only in certain circumstances and conditions for the purposes of sanitation. I do not think my friends need insist upon this, because this proviso satisfies their requirements, and the object of their amendments.

Babu AMULYA DHONE ADDY: I agree with Mr. Mallik when he says that there is a proviso to this clause under which a hut owner may get a supply of filtered water, but I beg to draw attention to the words "in special circumstances." There are no such restrictions in the case of a masonry building, so it appears that there is one law for the rich and another law for the poor. In the case of a masonry building there is no such restrictions, but if a person be the owner of a hut, there are restrictions. I beg to submit that the people should be placed on the same footing, be they rich or poor.

It has been said that unless a hut is properly drained or even connected with the sewer, no supply of filtered water is allowed. I entirely agree, but I know of cases in which the owners of huts have been forced to have their huts connected with the nearest sewer, and still their applications for a supply of filtered water have been rejected. The rate of mortality from cholera in huts is much more than that in masonry buildings, and that is a greater reason why I should support this amendment. As soon as cholera breaks out in a *bustee* it spreads like wild fire all over and affects not only the occupiers of huts, but also those of masonry buildings in the locality. That is the reason why filtered water connection should be allowed to the huts. My esteemed friend, Mr. Mallik, has said that generally filtered water connections to huts are allowed by the Corporation, but I beg to submit that it is only in Districts I, II and III, so far as No. IV is concerned, such applications are generally rejected.

Babu JATINDRA NATH BASU: May I be permitted to ask a question? Would the Government accept the omission of the words "in special circumstances" in proviso?

The Hon'ble Sir SURENDRA NATH BANERJEA: If that would satisfy my friend, Government have no objection.

The motion was then, by leave of the Council, withdrawn.

The motion that the words "in special circumstances" in line 1 of the proviso to clause 231 be omitted, was put and agreed to.

CLAUSE 233.

Babu AMULYA DHONE ADDY: I move that for clause 233, the following be substituted, namely:—

"233. (1) Filtered water for domestic purposes on ships for the time being lying in the Port of Calcutta may be taken free of

charge from public standposts of from any taps on the Port Commissioners' premises which ships may be allowed to use.

(2) The Corporation shall on demand supply every ship leaving the Port of Calcutta with a reasonable supply of filtered water for use on the voyage at such price not exceeding five rupees for every thousand gallons as the Corporation may determine."

I beg to draw your attention to the fact that the suggestions embodied in my amendment are also the suggestions of the Calcutta Port Trust as well as of the Bengal Chamber of Commerce. The drafting of the clause as it stands is defective. It has been rightly pointed out by the Bengal Chamber of Commerce that sub-clause (2) should be enlarged by substituting the words "lying in the port of Calcutta" for the words "leaving the jetties or the Docks of the Commissioners for the Port of Calcutta" and by inserting the words "while in the Port" and "after the word "use" in line 4. That is their suggestion, Sir, and I need not repeat them.

As regards the first part of sub-clause (2) of the Bill, the maximum rate that can now be levied upon the Port Commissioners is Rs. 5 per 1,000 gallons, and in the Bill revised by the Select Committee there is no limit. So I beg to submit that when the cost of filtered water is only 4 annas per 1,000 gallons if Rs. 5 is charged upon the Port Commissioners it will suffice. I am afraid that if the Corporation raise the rates further, it will affect the commerce of Calcutta.

SECRETARY to GOVERNMENT, DEPARTMENT of LOCAL SELF-GOVERNMENT (Mr. S. W. Goode): As regards sub-section (1), we would propose that the words "at the jetties or in the Docks of the Commissioners for" be omitted and that the clause run thus:—

"Filtered water from public stand-posts may be used free of charge, for domestic purposes on ships for the time being lying in the port of Calcutta."

As regards sub-clause (2), we are prepared to accept the amendment of Babu Amulya Dhone Addy as it stands.

The motion (1), as amended was then put and agreed to.

The motion (2) was then put and agreed to.

CLAUSE 237A.

The following amendment standing in the name of Mr. D. J. Cohen was, by leave of the Council, withdrawn:—

"that clause 237A be omitted."

Raja RESHEE CASE LAW: I move that clause 237A be omitted. I do not withdraw. My object in moving this amendment is that there are already sufficient provisions to safeguard against waste. This clause is in the nature of penalising a whole locality for the guilt of perhaps a few. For instance, one family in a locality may be wasteful and there is no reason why for this wastefulness of one, all the people of the locality should be forced to pay. The provision for penalising a whole locality for the fault of one is not only inequitable and injudicious, but the clause is especially defective in one particular, inasmuch as it does not at all provide for the punishment of or for the realization of the amount due from persons through whose carelessness or fault the wastage has occurred, but who have defaulted to pay the amount, either deliberately or on account of poverty, for which reason the whole locality is to be mulcted. No case has been made out for the introduction of such penal clauses, and I hope this will be omitted from the Bill altogether.

Dr. PRAMATHANATH BANERJEA: I move that clause 237A(*f*) be omitted.

In the first place I desire to support the amendment which has been just moved by Raja Reshee Case Law. The block meter system is sure to prove a great hardship to many occupiers of houses in this city. The result of the adoption of this system will be that some occupiers, although perfectly innocent themselves, will have to suffer for the sins of their neighbours. Besides, there is the possibility of harassment at the hands of the officers of the Corporation. In case, however, the Government be unwilling to delete the whole clause, I would urge the deletion of sub-clause (*f*), so that if the Corporation want they may have the system of block meter in order to satisfy themselves whether there is any waste of water in any part of the town. But in no case should the people of a whole locality be subjected to trouble and expense.

Babu SURENDRA NATH MALLIK: I think there is considerable misapprehension with regard to this section of the Bill. My friend, Raja Reshee Case Law, wants the whole section deleted, and he bases his argument on the fact that he thinks that for the default of one man the others should not be penalized. As regards my friend Dr. Pramathanath Banerjea, I cannot understand his position. He wants to omit sub-clause (*f*) only of clause 237A. So far as I understand it, that will take away the sense from the whole of the section itself. So far as the Raja's amendment is concerned, that is a reasonable thing, but my answer to that is that—he of all persons knows, and it is a very unpleasant thing to say, and I myself have been saying it for the last few years, and the members of the Corporation will agree with me—there is a considerable amount of water wasted. That fact cannot be gainsaid. There are persons who abuse the privilege to a

very great extent and waste any amount of filtered water, and I think it is from that point of view that my friend, Mr. D. J. Cohen, who is satisfied about it, has withdrawn his amendment. Now the question is that we are called upon to keep a certain amount of pressure at the terminus day and night. If that has got to be done, particularly in view of the fact that a large area has now been added to this municipality, it is all the more necessary that there should be checks as against this abuse, and it is only by putting in meters that we can check this abuse. The idea is to put in a block meter in any locality or street in which it is thought that there is a waste of water. Now comes the amendment of the Raja Sahib. He says: "Why should all be penalized for the default of one?" So far as that is concerned, you will find that there are safeguards. Before putting in a meter we propose to give a warning to the people concerned and to all householders. We shall say: "This block is entitled to, say, 2,000 gallons of filtered water, but you are using or wasting another 10,000 and therefore we must put a stop to it. If that is not done, what we propose to do is that such excess consumption shall be charged for over the whole area." Now comes the question of the innocent man. If there is a man who has a proper sense of civic duty and knows how not to waste water he comes to the Corporation under the proviso and says: "Put a meter in my house and see whether I am wasting water; If I am not, I am not liable to pay anything extra." If he is not a man who is in the habit of wasting water, he will not have to pay any part of the excess. That is the only way of checking abuse instead of insisting upon having a meter placed in every house. This will avoid expense to the ratepayers. The growth of civic sense in the city will justify us in taking this step, and that is the reason why we propose to put in these block meters.

Under sub-clause (3) we have the power to put in block meters. Suppose there are one or two persons in a particular block who waste water and are using filtered water for purposes which are not proper; for instance, if a person has a laundry and is using filtered water, we send down an officer to inspect the block and find out where the excess consumption is; then we put in a meter in this particular house and have the inmates pay for the excess they use. This provision has been made to protect those who are not abusing the water, and it is not put in to punish a few for the default of others. The innocent man for whom the Raja pleads and who knows how to use his civic rights will not be punished at all. After this explanation I hope the Raja Sahib will withdraw his amendment.

Raja RESHEE CASE LAW: May I be permitted to ask a question? I want to ask the acting Chairman whether a person will have to pay his penalty first and then ask for the meter to be put up—

Babu SURENDRA NATH MALLIK: This is the procedure. We propose first, when we suspect excess consumption, to give a warning, but if in spite of the warning the waste continues, we put in a block meter. Then this man comes to us and says: "I am not wasting water, put in a meter and satisfy yourself that there is no waste." So far as we are concerned, he is safe and has not to pay any penalty at all.

Raja RESHEE CASE LAW: In view of this explanation I beg to withdraw my amendment.

The amendment standing in the name of Raja Reshee Case Law was then, by leave of the Council, withdrawn.

The amendment standing in the name of Dr. Pramathanath Banerjea was then put and lost

CLAUSE 238.

The following amendment standing in the name of Mr. D. J. Cohen was, by leave of the Council, withdrawn:—

"That in line 3 of clause 238(*c*) the words '*or turn off*' be inserted after the words 'cut off.'"

The following amendment standing in the name of Rai Dr. Haridhan Dutt Bahadur was, by leave of the Council, withdrawn:

"That at the end of clause 238(*f*) the following be added:—

'*Explanation*. For the purpose of this section, water shall not be deemed to be wasted if it is shown that it has been deliberately and purposely drawn for use for domestic purposes from a tap provided for the purpose.'"

CLAUSE 240.

The following amendment standing in the name of Shah Syed Emdadul Haq was, in the absence of the member, deemed to be withdrawn:—

"That in clause 240(*f*), line 6, after the word, 'gallons' the the words 'and also at the *per capita* rates prescribed by proviso (*a*) to section 225' be added."

CLAUSE 243.

Dr. PRAMATHANATH BANERJEA: I move that clause 243 (*f*) be omitted.

This clause makes the occupier of a house practically liable for certain offences relating to the water supply, and under this sub-clause

it is to be presumed, unless and until the contrary is proved, that an offence has been committed by the occupier of a house. Now, Sir, this is a departure from the ordinary rules of evidence, and I do not think it quite right to throw the burden of proof on the occupier of the house.

I also move that in clause 243(2), the following be added at the end, namely:

"but the consumer shall be entitled to rebut such evidence, if possible."

While it may be said that this is implied in the section—possibly it is—I wish nevertheless to make it clear, so that there may be no difficulty in allowing the consumer the right to rebut such evidence.

Raja RESHEE CASE LAW: I move that at the beginning of clause 243(1) the words "when the meter is within the premises" be inserted.

The reason for my amendment is that it would be unjust to penalize a man for anything which is not under his absolute control. If the meter be outside, any outsider may tamper with it, and it would not be just to throw the onus of proving his innocence on the occupier in such cases.

Babu SURENDRA NATH MALLIK: In clause 243 the presumptive evidence is that the occupier shall be presumed to be a person who knows everything about the violation of the law in respect of the water supply. I would ask Dr. Banerjea could there be any other alternative? Under section 106 of the Evidence Act it is upon the person who has got special knowledge that the onus lies. If there is anything wrong in the water-supply or if there is any waste, he is the only person to whom I can go and say that he is wasting water. I do not see that there is any other way of dealing with it. You may say that he is the person who has not done it, but surely we can presume that he has done it. If you say that it was done by the maid-servant or by the three-year-old baby of the house, that cannot be allowed. He must take the responsibility because, after all, water has got to be manufactured at a considerable expense and nobody should be allowed to waste it. We must be able to fix the liability as a matter of presumption only. So far as the question of rebutting is concerned, it is always there. The contention of Dr. Banerjea has therefore not much force in it.

As regards Raja Reshee Case Law's amendment, I would draw his attention to the clause in question which mentions "in any premises," which of course means within the premises. Therefore there is no necessity of altering the clause in the way suggested by him.

I have already dealt with the question of rebutting the evidence. The only question is to whom are we going to look for evidence except the owner; and we therefore propose that this should be so. I do not think that any of these amendments can be accepted.

The motions were then put and lost.

CLAUSE 244.

Mr. S. W. GOODE: I desire, with your permission, to move a small amendment at this stage. I would move that the word "Khardah" be substituted for the words "South Barrackpore" in clause 244(*1*) (*a*). The House is aware that the South Barrackpore municipality was merged a few years ago within the two neighbouring municipalities of Barrackpore and Khardah and South Barrackpore is no longer in existence.

The motion was put and agreed to.

CLAUSE 248.

Babu JATINDRA NATH BASU: I move that clause 248(*1*) (*a*) be omitted.

This clause gives the Corporation the power to cut or turn off the water supply from houses. This is a very drastic power that is being given to the Corporation. We should see that the power is only used in cases where the owner or occupier is guilty of certain acts such as interference with the water system itself, which render it necessary that the water supply should be cut off. I have already called the attention of the House to the fact that in a tropical city like Calcutta water is almost as much a necessity as air. During eight months of the year we live in the torrid zone and for four months only in the temperate zone. A very large portion of the people of Calcutta consists of labourers, and water is an absolute necessity to them. I want also to take away from the Corporation the power to cut off water supply from a house only because for the time being it happens to be unoccupied. A house may be unoccupied for a few days only and the owner may be paying full rates. For instance, if a person goes up to the Hills for a month's holiday, leaving his house unoccupied, the Corporation may cut or turn off the water supply even though he pays full rates. Why should the Corporation put the occupier or the owner to inconvenience when he comes down and finds that the house has no water supply, and he has to wait for two or three days, and probably longer, before the supply is restored? Sir, the mere fact that the house is unoccupied should not entitle the Corporation to cut off the water supply.

The second portion of my amendment is that if the owner or the occupier of the house fails to pay any money due to the Corporation for 15 days after the due presentation of a bill or the due service of a notice, then the Corporation would be at liberty to cut off the water supply. This is a provision which penalizes poverty. You have in this Act provisions securing in every possible way the realization of the dues of the Corporation.

Mr. PRESIDENT (the Hon'ble Mr. H. E. A. Cotton): Which of the amendments are you speaking of, Jatindra Babu?

Babu JATINDRA NATH BASU: I am speaking on amendments No. 393, Nos 396-398 and also No. 405, which I beg to move formally. They are as follows:—

"That clause 248(*1*) (*b*) be omitted."

If the above motion be carried, that—

"(*1*) in lines 2 and 3, in proviso (*iii*) to clause 248(*1*) for the words, letters and brackets 'in clause (*b*) or (*h*)' the words, letter and brackets 'in clause (*h*)' be substituted;

(2) proviso (*iii*) to clause 248 (*1*) be omitted;

(3) in the proviso to clause 248(2) the words, letter and brackets 'clause (*a*) and' in line 2 be omitted; and

(*1*) sub-clauses (*5*) and (*1*) be omitted."

The Corporation has been given the authority under this Bill to distrain peoples' goods if money due to the Corporation is not paid. Under this Act a first charge is declared on all lands and houses in Calcutta for the payment of the rates due to the Corporation. So the Corporation is secured in every possible way. It should not be given further powers. The cutting off of water supply would be like casting the residents of a house into a dungeon. The Corporation does not see the serious consequences of this provision. I also propose that if my principle amendment is carried, consequential amendments may be made as shown in my latter amendment.

Dr. PRAMATHANATH BANERJEA: I move that for clause 248(*1*) (*a*) the following be substituted, namely:

"If notice has been given to the Corporation by the owner that the premises are unoccupied."

My object in moving this amendment is to prevent the Corporation from cutting off the water connection to premises which are only temporarily unoccupied. There is no reason why the Corporation should cut off the water connection if the owner or the occupier of the premises goes on paying the rates and is only temporarily absent from the town.

I desire also to move that clause 248(*1*) (*b*) be omitted.

As my friend, Mr. Basu, has pointed out, this clause is quite unnecessary. There are many other ways of realizing the rates from the

owner or occupier of a house. This Act gives the Corporation the power to sell the moveables belonging to an occupier or owner of a house if he fails to pay his rates. This is too general a power and its retention will enable the officers of the Corporation to inflict great hardship on people. Water is one of the first necessities of life and the remedy contemplated in this section ought not to be resorted to so long as there are other remedies at hand.

I desire to withdraw the following amendments which stand in my name:—

"That clause 248(*1*) (*c*) be omitted."

"That clause 248(*1*) (*d*) be omitted."

Mr. D. J. COHEN: I move that at the end of clause 248(*1*)(*a*), the following be aded, namely:—

"and possess separate service pipes direct from the mains."

I also move that clauses 248 (*1*)(*b*) and 248(*1*)(*h*), be omitted.

I quite agree with the acting Chairman that when a house is unoccupied water supply should be turned off. I cannot help thinking that my friend, Babu Jatindra Nath Basu, is under a delusion that the Executive Engineer, Water-works, sends his overseers round to find out whether a house is unoccupied or not. That is not the system. It is only when the Assessment Department receives notice of a vacancy that they notify the Waterworks Department and they, in their turn, turn off the water supply of that particular house My reason for moving my first amendment is this, that several buildings in Calcutta have separate numbers for each flat or suite or rooms and there may be cases where there is only one service. My amendment will serve this purpose, that the Water-works Department will then be compelled to find out exactly whether a part of any premises has got a separate service pipe or not, and in the latter case they will not turn or cut off the water supply. So far as my second amendment is concerned, I do not think that the power of cutting off the water supply should be used as a lever for the realization of dues. It would undoubtedly cause a great hardship. Then again under another section the Corporation has power to turn off the filtered supply from premises which have ceased to be used for human habitation. I have no objection to that so long as the unfiltered water-supply is not turned off Filtered water can be had from stand-posts outside, but if you cut off the unfiltered water it would make the house more uninhabitable than what it is.

Mr. S. W. COODE: That is provided for in the proviso.

Mr. D. J. COHEN: Then in that case, I would withdraw my amendment No. 404.

Babu AMULYA DHONE ADDY: First of all I would support the amendment No. 396, and if it is not carried, then I would insist on my amendment No. 399, but I must strongly oppose No. 393.

I fail to understand as to why the water supply should not be cut off from a house which is unoccupied. Because in the case of a vacant holding the supply of filtered water will be nothing but a mere waste and, further, as soon as a house is vacant, it would be the proper duty of the Corporation to cut off the water supply from that house. As regards sub-clause (*b*), I beg to submit that it should be omitted altogether. Under the sub-clause "the Corporation may cut off the water connection if (in the case of a *bustee*) the owner, or (in any other case) the occupier, of the premises fails, for 15 days after the due presentation of a bill or the due service of notice, to pay any sum due to the Corporation from him in respect of such premises," that is to say, if a person fails to pay any rates and taxes due from him, then the water connection will be cut off not in respect of such premises for which he fails to pay rates and taxes, but in respect of other premises. Suppose a person has got a landed property in Ward No. 1 and he resides in Ward No. 25. If he does not pay the rates and taxes in respect of his property in Ward No. 1, then the Corporation may cut off the water connection from his dwelling house situated in Ward No. 25. I submit that it would be a source of great hardship on him. The Indian Association have expressed the opinion that "it would be barbarous to cut off the water supply on the ground of the failure on the part of the owner to pay rates and taxes." Then, Sir, there are other measures which can be taken by the Corporation. If he does not pay the rates in respect of any premises, the Corporation can bring a suit against him for default and can attach his moveable property for the arrears. But, Sir, let the Corporation take whatever coercive measures they may take under the law, let not the Corporation cut off the water connection on the ground of the failure on the part of the owner to pay rates and taxes in respect of those premises or any other premises. In the case of a *bustee*, who is to suffer? It is not the *bustee* owner. But if the *bustee* owner does not pay municipal rates and taxes he will not suffer. It is the poor hut owners, the poor people who live in *bustees*, who will suffer. If you do not supply the filtered water to the *bustee* people, the result would be rather disastrous. Cholera will break out; and, as we all know the death-rate is already very high in *bustees*, it will go up further. Then, Sir, when the Calcutta Municipal Bill of 1899 was under discussion, all the hon'ble Indian members of the Council strongly opposed the proposal and suggested that this clause should be omitted altogether. They strongly pointed out that it would be dangerous to cut off the water connection if the owner fails to pay the rates. The rate bill may not be duly presented to the person concerned. I know of several cases in which notice is not properly served, so as to enable the owner to contest the amount of the bill. Suppose Rs. 500 is the bill presented to him for not filling up an insanitary tank and the owner contests that that amount may not be due from him. The Corporation under this sub-clause

may cut off the supply of filtered water from his dwelling house. I have already drawn attention to the fact that, if the Corporation cut off the water supply of a building in respect of which he is in arrears, there may be some justification. But if a person has got 100 houses and if he pays rates in respect of 99 houses but be in arrears for one house which may not be due to neglect on his part, would the Corporation be justified in cutting off the water supply from his very dwelling house on this ground?

With these few words I strongly support my amendment and oppose the motion for omission of sub-clause (*l*)(*a*).

Rai MAHENDRA CHANDRA MITRA Bahadur: I have got a similar amendment, and I say on the ground of hardship that the word "or" be omitted.

Mr. S. W. COODE: I may at the outset state that we are prepared to accept the amendments Nos. 399-400 and for the reasons given by Mr. Addy. I think that in view of the new principle which this Act has embodied in section 240 in which the liability for water rate is principally divided between the outgoing and the incoming tenant, it is only reasonable that we should not impose on the owner of the premises, liability for any bill which is outstanding in respect of the previous occupier. From that point of view, we think that the deletion of the word "or" is most desirable.

As regards the main motion of Babu Jatindra Nath Basu and Dr. Pramathanath Banerjea, I would merely point out that while this clause does undoubtedly confer very wide and drastic powers on the Corporation, it is always to be remembered that the Corporation need not delegate these powers to any one except the Executive Officer himself, and they can therefore be assured that these powers would be exercised with proper discretion. As a matter of fact, these powers are actually used at present in the most sparing manner. I do not know what the present custom is, but when I was connected with the Corporation it was always the practice for the collector to obtain the orders of the Deputy Chairman before the application of this section was made, that is, before the water supply was cut off from the premises in order to enable the Collector to realize the rates. Such cases were extremely few. Where the premises are unoccupied, I think it is most unreasonable to expect that the Corporation should not cut off the water supply. Babu Jatindra Nath Basu has cited the instance of an owner going away for a month to the Hills, but in that case, if he has not submitted any notice for vacancy, this clause will not come into operation. Where, however, there is real vacancy and the premises remain unoccupied, I think it is the essential duty of the Corporation that they should cut off the water supply immediately. We have found from experience that in an unoccupied house it is not uncommon to have

the taps running and there is considerable waste of water. I would admit that Babu Jatindra Nath Basu made a strong point when he urged that since the owner of the premises would not get any vacancy remission until the premises have been vacant for 60 days, he is therefore entitled to ask the Corporation to give him all the privileges which he would be entitled to by the payment of full rates. But it must be remembered that the good of the public should be the first consideration in this matter. In the public interest it is desirable that all possibility of waste should be prevented. I suggest, therefore, that it very essential that sub-clause (*a*) of clause 248(*l*) should be retained in the Bill.

Mr. Cohen has referred to the case of separate flats which do not have separate connections. He has urged with some force that it would be unreasonable to cut off the water supply of the entire premises if there is a vacancy in one flat. But this difficulty will not arise, for each separate flat will have separate pipes leading to the main service pipe and the Waterworks Department will certainly deal with such cases after due inquiry. Mr Cohen has withdrawn his amendment No 404 and Dr Banerjea has withdrawn his other amendments. I think I have touched on all the points of the other amendments which have been placed before the Council I would finally remind the House again that these powers are only for emergent cases and we may assume that they will be exercised with the greatest care and only used in the last resort. In case of bustee tenants, they will at the most be inconvenienced. There is no danger of their suffering the pangs of thirst, as it is always possible for them to go to the street hydrants for their supply of water.

Babu SURENDRA NATH MALLIK: May I say only one word? From our experience we have found that it is the vacant houses which consume most water: all the taps are left open, and water is wasted for hours in the morning and for hours in the evening, although there is nobody in the house

The following motions were then put and lost:

"That clause 248(*l*)(*a*) be omitted"

"That for clause 248(*l*)(*a*), the following be substituted, namely:—

'If notice has been given to the Corporation by the owner that the premises are unoccupied.'"

"That at the end of clause 248(*l*)(*a*), the following be added, namely:

'and possess separate service pipes direct from the mains.'"

The motion that clause 248(*l*)(*b*), be omitted was then put and a division was demanded.

Mr. PRESIDENT: The division should be taken in the chamber.

Kumar SHIB SHEKHARESWAR RAY: *May I rise to a point of* order? Is there anything in the rules that when a division is called for, it can be taken by any other way than by walking into the lobby? I know that there has been some misuse of this privilege, but to remedy this, the Standing Orders should first be changed.

Mr. PRESIDENT: The rules give absolute discretion to the President to decide as to how a division should be taken, and you must be well aware of that, Kumar Sahib.

On a division in the chamber being commenced more than ten members supported the motion and the Hon'ble the President then ordered that the division should be taken through the lobbies.

The result of the division was as follows:—

AYES.

Addy, Babu Amulya Dhone.
Afzal, Nawabzada K. M., Khan Bahadur.
Ahmed, Maulvi Rah Uddin.
Ahmed, Maulvi Yakulnuddin.
Ahmed, Munshi Jafar.
Aley, Mr. S. Mahboob.
Ali, Munshi Amir.
Arhamuddin, Maulvi Khandakar.
Azam, Khan Bahadur Khwaja Mohamed.
Banerjea, Dr. Pramathanath.
Basu, Babu Jatindra Nath.
Chaudhuri, Babu Kisheri Mohan.
Chaudhuri, Babu Tankanath.
Chaudhuri, Maulvi Shah Muhammad.
Chaudhuri, Rai Harendranath.
Choudhury, Khan Bahadur Maulvi Rahmatjan.
Das, Babu Bhishmadev.
Das Gupta, Rai Bahadur Nibaran Chandra.
De, Rai Bahadur Fanindralal.
Dess, Rai Bahadur Pyari Lal.
Dutt, Rai Bahadur Dr. Haridhan.
Ghose, Rai Bahadur Jogendra Chunder.
Haq, Shah Syed Emdadul.
Huq, Maulvi Ekramul.
Karim, Maulvi Fazlal.
Khan Chaudhuri, Khan Bahadur Maulvi Muhammad Ershad Ali.
Law, Raja Reshee Case.
Makramali, Munshi.
Mitra, Rai Bahadur Mahendra Chandra.
Mukherji, Professor S. C.
Mukhopadhaya, Babu Sarat Chandra.
Raul, Maulvi Shah Abdur.
Ray, Babu Surendra Nath.
Ray, Kumar Shib Shekhareswar.
Rishi, Babu Rasik Chandra.
Ray, Babu Jogendra Krishna.
Roy, Babu Jogendra Nath.
Roy, Mr. Bijoyprosad Singh.
Roy, Rai Bahadur Lalit Mohan Singh.
Roy Chaudhuri, Babu Sailaja Nath.
Salam, Khan Bahadur Maulvi Abdus.

NOES.

Ali, Munshi Ayub.
Banerjea, the Hon'ble Sir Surendra Nath.
Birley, Mr. L.
Bose, Mr. S. M.
Chowdhury, Maulvi Fazlal Karim.
De, Mr. K. C.
Deare, Major-General S. N.
Donald, The Hon'ble Mr. J.
Deseyan, Mr. J. T.
Eassen, Mr. C. A.
Emerson, Mr. T.
Farequi, Mr. K. C. M.
Forrester, Mr. J. Campbell.
Ghose, Mr. D. C.
Goode, Mr. S. W.
Hornell, Mr. W. W.
Huntingford, Mr. G. T.
Jones, Mr. J. A.
Khaitan, Babu Debi Prasad.
Khan, Maulvi Md. Rafique Uddin.
Maharajadhiraja Bahadur of Burdwan, the Hon'ble the.
Mallik, Babu Surendra Nath.
Marr, Mr. A.
McAlpin, Mr. M. C.
Mukerjea, Mr. S. C.
Mukherjee, Babu Nitya Dhone.
Philip, Mr. J. Y.
Raheem, Mr. Abdur.
Ray, Maharaja Bahadur Kshaunish Chandra.
Ray, Mr. J. N.
Sen, Babu Mani Lal.
Skinner, Mr. N. E.
Stark, Mr. H. A.
Stephenson, the Hon'ble Mr. H. L.
Stuart-Williams, Mr. S. C.

The Ayes being 41 and the Noes 35, the motion was carried.

The following motion was then put and agreed to:—

"That—

(1) in lines 2 and 3, in proviso (*ii*) to clause 248(*1*) for the words, letters and brackets 'in clauses (*b*) or (*h*)' the words, letter and brackets 'in clause (*h*)' be substituted;

(2) proviso (*iii*) to clause 248(*1*) be omitted."

The following motions, being consequential, failed:—

"That in clause 248(*1*)(*b*), line 6, the word 'or' be omitted."

"That in the proviso to clause 248(2) the words, letter and brackets 'clause (*a*) and' in line 2, be omitted."

The following motions were, by leave of the Council, withdrawn:—

Dr. PRAMATHANATH BANERJEA: "To move that clause 248(*1*)(*c*), be omitted."

Dr. PRAMATHANATH BANERJEA: "To move that clause 248(*1*)(*d*) be omitted."

Dr. PRAMATHANATH BANERJEA: "To move that clause 248(*1*)(*e*) be omitted."

Mr. D. J. COHEN: "To move that clause 248(*1*)(*h*) be omitted."

The motion that sub-clauses (3) and (*1*) of clause 248 be omitted was then put and agreed to.

CLAUSE 249.

The following amendment standing in the name of Shah Syed Emdadul Haq was, by leave of the Council, withdrawn:—

"That in clause 249, line 4, after the word 'any' the word 'unwholesome' be inserted."

CLAUSE 251.

Mr. D. J. Cohen being absent, the following amendment standing in his name was deemed to be withdrawn:—

"That in line 1 of clause 251(2) the word 'enlarged' be omitted."

Raja RESHEE CASE LAW: I move that in clause 251(2), line 3, for the words "the subsoil appertaining to the drain" the words "so much of the subsoil appertaining to the drain as would be necessary for the said purposes" be substituted.

Mr. S. W. GOODE: We would accept the amendment with the substitution of the word "may" for the word "would."

The amended motion was then put and agreed to.

CLAUSE 268.

Babu AMULYA DHONE ADDY: I move that in clause 268(2), line 4, for the words "owner of the land on which such hut stands," the words "owner of the hut" be substituted.

It will appear that, under sub-clause (2) of this clause, "if the Corporation consider that a new drain should be constructed for the benefit of the occupants of any hut, they may, by written notice, require the owner of the land on which such hut stands to construct such drain, and such owner shall construct such drain and shall maintain and from time to time cleanse and repair it to the satisfaction of the Corporation." I beg to submit that under the terms of lease it is the hut-owner who is bound to comply with all the municipal requisitions, and therefore, if a drain is necessary, certainly it is the hut-owner and not the owner of the land who should construct this drain. But, Sir, I admit that in the case of main drains they should be done by the *bustee* owner, but in the case of branch drains, they should be done by the hut-owners, because, as will appear from the wording of sub-clause (2), this drain is needed for the benefit of the hut. If it is necessary for the benefit of the occupants of the hut, it is the hut-owner who should be called upon to construct this drain and not the owner of the land. Assuming for argument's sake that the owner of the land should be called upon to construct these drains, then as regards the maintenance, repairing and even cleansing of these drains, I think these are matters which should be left to the hut-owner and not to the owner of the land. If a drain is choked up it must be due to the negligence of the hut-owner or the occupant of the hut and not the owner of the land. Therefore I beg to move this amendment.

Rai JOGENDRA CHUNDER GHOSE Bahadur: This cannot be supported. Babu Amulya Dhone Addy was just before pleading the cause of the poor, but he is now not pleading the cause of the poor but is pleading the cause of the landlords.

Dr. PRAMATHANATH BANERJEA: I desire to oppose this amendment. It is not possible for the poor owner of a hut to construct a drain. If the burden is thrown on the owner of a hut, it will be impossible for him to carry out this provision. On the other hand, it is possible for the owner of the land on which such huts stand to construct a drain. Therefore I think Babu Amulya Dhone Addy's amendment cannot be supported. In his speech Babu Amulya Dhone Addy has said that the maintenance and cleansing of the drains must

be left to the hut-owner. This part of the amendment might be accepted by the Government.

Babu SURENDRA NATH MALLIK: The idea underlying this suggestion is not to allow the Corporation to have the necessary improvements at all, and therefore my friend, Babu Amulya Dhone Addy, is anxious to throw the burden on the tenants, knowing full well that the tenants have got neither the money nor have they got any permanent interest in the land. The hut-owners live in the huts for one or two years and they can be easily turned out by the landlords—they are entirely at the mercy of the landlords. The recent idea, to my personal knowledge, is to put certain clauses (*a*), (*b*), (*c*), (*d*), etc., in the lease to the effect that all the necessary improvements that will be required by the Corporation will have to be done by the tenants. But it is not to the interest of the tenants as they have got no interest in the land it is the business of the landlords to make these improvements My friend all this time was very anxious to help the tenants, but now when he sees that these improvements will benefit the landlords, he is proposing that these should be done by the tenants. The real object appears to be to obstruct the Calcutta Corporation in making sanitary improvements in *bustee* land. The amendment should therefore be rejected

The motion was then, by leave of the Council, withdrawn

CLAUSE 269

Babu JATINDRA NATH BASU: In the absence of Mr D J Cohen, I move the following:

"That in clause 269(*a*) the words 'and the by-laws made under the Act' be inserted after the word and figures 'Schedule XIV.'"

"If the above motion be carried, that the words 'and by-laws' be added at the end of clause 269(*b*)."

The amendments are mere verbal ones Under the Bill power is given to the Corporation to frame by laws The construction of drains should not be limited to rules contained in Schedule XIV, but also to any by-laws that may be made under this Act. I therefore suggest the insertion of the words stated above

Mr. S. W. COODE: We would accept this amendment with a slight drafting change. I think the addition should run "and the by-laws made under this Act relating to drains."

The motion, as amended, was then, put an agreed to

The motion that the words "and by-laws" be added at the end of clause 269(*b*) was then put and agreed to.

CLAUSE 270.

Maulvi Hamid-ud-din Khan being absent, the following motion standing in his name was deemed to be withdrawn:—

"That in clause 270(*a*), line 2, after the word 'situations' the words 'in every street' be inserted."

CLAUSE 275.

Babu JATINDRA NATH BASU: In the absence of Mr. D. J. Cohen, I move the following:—

"That in clause 275(*a*) the words 'and by-laws made under this Act' be inserted after the word and figures 'Schedule XIV.'"

"That the words 'and by-laws' be added at the end of clause 275(*b*)."

They cover the same ground on which I moved the last two amendments standing in the name of Mr. Cohen.

Mr. S. W. COODE: We would accept the amendment, but it should run as follows:— "and any by-laws made under this Act relating to privies and urinals and all appurtenances thereof."

The motion, as amended, was then put an agreed to.

The motion that the words "and by-laws" be added at the end of clause 275(*b*) was then put and agreed to.

CLAUSE 279.

Dr. PRAMATHANATH BANERJEA: I move that in clause 279(2) paragraph 2, in lines 1 and 2, for the words "the expenses of the inspection and examination shall be paid by the owner of the premises" the words "the Corporation may, at their discretion, compel the owner to pay the expenses of the inspection and examination" be substituted.

Mr. S. W. COODE: We accept the principle and would suggest that the drafting should run as follows:—"the expenses of the inspection and examination shall, if the Corporation so direct."

The motion, as amended, was then put and agreed to.

Dr. PRAMATHANATH BANERJEA: I move that in clause 279 (2), proviso, in line 3, for the word "ten" the word "two" be substituted.

Under the provisions of this clause, the expenses of inspection and examination are to be paid by the owner of the premises, and it would

be a great hardship if poor owners and occupiers of houses are compelled to pay so much as Rs. 10. Some of them may be ignorant people. They may not know whether any disorder has occurred owing to their neglect and they may not be responsible for these disorders. I think a fine of Rs. 2 would suffice.

Babu SURENDRA NATH MALLIK: I must oppose this amendment, particularly after Government have accepted the last amendment by which the words "if the Corporation so direct. . . ." have been inserted. That means that the Corporation is going to be responsible for the cost in many cases. But [illegible] as "two" being substituted for "ten" is concerned, I do not think there is any justification for it at all. I find that in section 319 of the present Act, which was enacted in the year 1899, the provision is that the amount shall not exceed Rs 10. If it was Rs. 10 in 1899, I do not think there is any ground for complaint if in 1923 we put in the same amount, Rs. 10.

The motion was then put and lost.

CLAUSE 297.

Babu JATINDRA NATH BASU: I move that in clause 297(1), line 5, the word "subsoil" be omitted.

Under the law, whenever any land vests in a person, all rights whether above the ground or under the ground vest in that person. The word "subsoil" is a superfluity in law and I do not know why those who drafted the Bill have inserted this word.

Babu SURENDRA NATH MALLIK: I am sorry I have got to oppose this amendment. I would only point out to my hon'ble friend, the standpoint from which I am opposing it, and I hope that my hon'ble friend will, after hearing me, see his way to withdraw his amendment. The question is whether the word "subsoil" should be deleted. Now, there is no objection to the soil on which the road is situated vesting in the Corporation, but what is the good in objecting to the subsoil? Who on earth is going to claim the right to the subsoil below the road? Objections like this could have been taken 50 years ago. In these days of sewage and all that, you might require the subsoil at any moment for the extension of the sewage system. So, I think that it is an absolutely futile proposition and as such, in a town like Calcutta, where the sewage system is being extended everywhere and every day, this amendment cannot be accepted. I hope, in view of this explanation, my hon'ble friend will see his way to withdraw his amendment. I might also add that this is the case in the mufassal municipalities.

Babu JATINDRA NATH BASU: I only consider it a superfluity and there is no harm in having it. It looks foolish! Still I beg to withdraw it.

The amendment was then, by leave of the Council, withdrawn.

CLAUSE 301.

Babu AMULYA DHONE ADDY: I withdraw the following amendment:—

The amendment was, by leave of the Council, withdrawn.

"That in clause 301(3), the following be added at the end, namely:—

'and in assessing such compensation, consequent loss of rent shall be taken into consideration.'"

CLAUSE 303.

The following amendments were then, by leave of the Council, withdrawn:—

Raja RESHEE CASE LAW: "To move that in the heading before clause 303, the words 'Building lines and' be omitted."

Raja RESHEE CASE LAW and Dr. PRAMATHANATH BANERJEA: "To move, if motion No. 419 be carried, that in clause 303(1), lines 2 and 3, the words 'a building line or a street alignment or both a building line and' be omitted."

Raja RESHEE CASE LAW and Dr. PRAMATHANATH BANERJEA: "To move, if motion No. 419 be carried, that the proviso to clause 303(1) be omitted."

Raja RESHEE CASE LAW: "To move, if motion No 410 be carried, that clause 303(3) be omitted."

SHAH SYED EMDADUL HAQ: "To move that in clause 303(3) line 1, for the word 'consider' the word 'hear' be substituted."

Raja RESHEE CASE LAW and Dr. PRAMATHANATH BANERJEA: "To move if motion No. 419 be carried, that in clause 303(3), lines 5 and 6, the words 'a building line or a street alignment or both a building line and' be omitted."

Raja RESHEE CASE LAW and Dr. PRAMATHANATH BANERJEA: "To move, if motion No. 419 be carried, that in clause 303(3), line 10, the words 'building line or' be omitted."

Raja RESHEE CASE LAW and Dr. PRAMATHANATH BANERJEA: "To move, if motion No. 419 be carried, that clause 303(4) be omitted."

CLAUSE 304.

Babu JATINDRA NATH BASU: I move that in clause 304(*1*), proviso (*a*), line 1, after the word "compensation" the words "for such additions" be inserted.

When anyone desires to build within the alignment lines, the Corporation is given the authority to allow him to build on the basis of an agreement to be entered into by the owner, so that he may not claim compensation in the event of the Corporation acquiring the land. I want to avoid the contingency of the owner claiming more than the actual price of the additions. I want to add the words "for such additions" in order any mistake may be avoided and that the owner may not claim more.

Mr. S. W. GOODE: I would suggest that (subject to correction) this amendment will have the very opposite effect from that which Mr. Basu desires. I would draw the attention of the House to Babu Amulya Dhone Addy's amendment No. 418. He proposes there to take other factors than the mere cost of structure into consideration, viz., the consequent loss of rent, etc. Now I apprehend that if in this clause you add the words which Mr. Basu suggests "for such additions" after the word "compensation," the point may be raised that those additions had some special value apart from the actual cost of the structures.

Babu JATINDRA NATH BASU: May I add one word of personal explanation? My amendment intended that the owner should not be entitled to ask for compensation for the additions.

Mr. S. W. GOODE: Yes, I regret that I was slightly off the rails. My point is still the same. Under Mr. Basu's amendment, if you limit the case in which compensation may *not* be claimed to the additions it will be quite possible for the owner of the premises to ask for some compensation based on other circumstances. Suppose, for instance, he argues that in the case of an addition to the ground floor of a second storey, the letting value of the ground floor has been enhanced by the added convenience of residential rooms above it; well, it is quite possible for him to say that by requiring the removal of this addition, viz., the second storey, you are thereby reducing the new value which has accrued to the ground floor. In that case I suggest that if you attempt to state that the claim for compensation shall be barred only so far as the structure is concerned, you leave it open to the courts to hold that compensation on other grounds may be paid. I would therefore suggest that this proposal is really dangerous.

The motion was then put and lost.

Babu SURENDRA NATH MALLIK: I move that at the end of clause 304(2) the words "and if after another period of six months thereafter the site is not acquired or permission grantd, then the alignment shall be deemed to be abandoned," be added.

This is only to obviate difficulties that might arise, because the section is not clear enough as to what is meant by "street alignment." Sub-clause (2) of clause 304 runs as follows:—

> "If the Corporation refuse to grant the permission applied for *to add* to any building on the ground that the proposed site falls wholly or in part within a street alignment prescribed under section 303 and if such site, or the portion thereof which falls within such alignment, be not acquired by the Corporation within *six months* after, the date of such refusal, they shall pay reasonable compensation to the owner of the site."

Very good! Now the compensation is paid and finished. What is to happen to the alignment itself? Unless you say as I propose in the amendment I have moved, you do not say what is going to happen to the alignment. The man may put in another plan after six months and get compensation and go on doing this every six months But this cannot be the idea of the framers of the Bill. I think that it is fair to the ratepayers, as well as to the Corporation, to come to some idea as to what is going to happen to the alignment after six months. If the Corporation do not acquire the bit of land within six months, it must be deemed to have been abandoned; otherwise considerable difficulty will arise as time goes on. If my amendment is accepted, the whole thing will be complete; the Corporation will know where they will be and the ratepayers will also know their position

Mr. D. J. COHEN: I move that at the end of clause 304(2), the following be added, namely:—

> "and the said alignment shall be deemed to be abandoned."

The difference between my amendment and that of Mr. Mallik is this. Mr. Mallik wants to give another six months' time after the expiry of the six months noted in the sub-clause. I do not see any necessity for it. Under this sub-clause, if the plan is submitted and refused by the Corporation and if under the circumstances the Corporation do not acquire that particular piece of land within six months after the date of such refusal, they shall pay reasonable compensation. Mr. Mallik says, "Give them another six months to make up their mind." Supposing the owner puts in a plan immediately after the date of his first refusal, he can certainly claim compensation once again. How will he meet this case? For this reason, I think that my amendment ought to be accepted.

Babu DEBI PROSAD KHAITAN: I regret to have to oppose both these amendments, which mean practically the same thing, as being dangerous to the interests of the Corporation, although one of them has been moved by the acting Chairman of the Corporation himself. If these amendments of either of them be accepted, then if the Corporation does not, within 12 months, or six months, according to Mr. Cohen, pay compensation or acquire the land, the result of that automatically would be that the alignment would be abandoned. Cases may happen in which, though the Corporation may not want to abandon the alignment, delay may take place, but still the alignment may be for the benefit of the locality. In that event, if the alignment be automatically treated as abandoned, then the Corporation will be put to great difficulties. It is for the Corporation to decide whether the alignment is to continue or not, and the danger which is apprehended by my friends, Mr. Mallik and Mr. Cohen, is that the owner of the land may from time to time claim compensation. That is a matter for the Corporation to determine. As to whether the alignment is to continue or not, the Corporation will decide this according to the facts and not according to the particular landlord but having regard to all circumstances relating to that street. I think that the Corporation may be put to great difficulties if this automatical abandonment of the alignment is to be introduced into the statute, but it should be left to the Corporation to decide whether the alignment is to be abandoned or not.

Mr. S. W. COODE: I think that perhaps Mr. Mallik may disposed to withdraw his amendment in view of the points which Mr Khaitan has urged with good deal of force I think that it would be better on the whole not to tie the hands of the Corporation by a statutory obligation to render the alignment null and void or as Mr. Khaitan called it "automatical abandonment," but that the Corporation should be given the power which they already possess to abandon any alignment if for any reason it is considered injudicious to retain it. Government would agree with the view which has been taken by Mr. Khaitan, and I would ask Mr Mallik to consider whether, in the circumstances that have been stated, this amendment may not be withdrawn.

Babu SURENDRA NATH MALLIK: I asked it on behalf of the ratepayers, and if they do not want it, I shall withdraw my amendment.

The motion standing in the name of Babu Surendra Nath Mallik was, by leave of the Council, withdrawn.

The motion standing in the name of Mr. Cohen was then put and lost.

Babu AMULYA DHONE ADDY: I move that clause 304(3) and (4) be omitted.

These sub-clauses are new. They are not in the existing Act. Under these sub-clauses, no person shall erect or add to any building between a street alignment and the building line without first obtaining the permission of the Corporation to do so. First of all, I will state the difference between a street alignment and a building line. A street alignment is an alignment for the widening of an existing street and no person is allowed to erect any building or make an addition to an existing building without the express permission of the Corporation. The Corporation has a right to acquire it and widen a street. At the same time the person or persons affected have a right to get adequate compensation for the acquisition of that plot of land. But a building line is quite different from a street alignment. It is a line for the erection of buildings and no person is allowed to erect any building between a street alignment of the existing street and the building line. The owner of that plot of land, apart from the question of any building in that strip of land, has no right to claim any compensation for the refusal of the Corporation to grant sanction for the erection of a building. So, it appears that in the case of refusal of sanction for the erection of a building between a street alignment and the existing street, the party is entitled to get compensation, but in the case of a building line, the party is not entitled to get any compensation. It may be said that it may be required to widen the street in course of time, but I may be allowed to say that even in the case of street alignments which were prescribed years ago, I do not think there is any chance of the streets being widened in accordance with street alignments even after 10 years. In the case of building lines, I do not know whether the Corporation will ever be in a position to widen the streets in accordance with building lines. It is also said that it will encourage the habit of keeping open spaces. I beg to submit that the Bengal National Chamber of Commerce and the British Indian Association have expressed the opinion that the *purdahnashin* ladies prefer open spaces at the back of a building and not in front of it. Therefore the enforcement of this open space between the building line and the existing street will be a source of great hardship and will reduce the market value of land unnecessarily. With these remarks I beg to move that these two sub-clauses which relate to building lines be omitted altogether. It may be said that the amendment for the omission of he definition of a building line has not been accepted by this Council, but that is no reason as to why, in the absence of specific provisions, these sub-clauses should not be omitted.

Dr. PRAMATHANATH BANERJEA: I support this amendment.

Rai Dr. HARIDHAN DUTT Bahadur: I rise to oppose the amendment of Babu Amulya Dhone Addy and Dr. Pramathanath Banerjea. If this is accepted, the purpose of laying down building lines will be

altogether frustrated. The purpose of laying down building lines primarily is to secure an open space in front of buildings and also to enable the Corporation to widen the roads hereafter when that is found necessary. To ensure these points, it is desirable that in the open space between the street alignment and the building line there should be no unnecessary construction of buildings. If anybody wants to build any structures between these two lines, he can only be allowed to do so on certain terms, and the most important term that should be insisted on in a case like this would be to remove these structures. If we accept Babu Amulya Dhone Addy's amendment to omit the sub-clauses, I hold that the very purpose of the building lines will be frustrated.

Babu SURENDRA NATH MALLIK: I feel it my duty to oppose my friend Babu Amulya Dhone Addy's motion on the ground simply that it means a farewell to all our efforts at widening streets and improving lanes. He knows that to the interests of many, the interests of individuals must be subordinated. There is no question about it. What we want is this. If we want to widen a street, which we cannot do at the present moment, we have got to wait; we simply lay a line and see that people do not build any substantial structure between the frontage of the houses and the line. Therefore we say that no persons shall erect or add to any building between a street alignment and the building line without first obtaining the permission of the Corporation to do so, and also we say: "You can make some inconsequential structures, for instance, a porch or a balcony or out-house not exceeding 15 feet in height, which would not be very costly for us to acquire when we come to address ourselves to the question of widening of that street." If in the meantime a very substantial building is put up, then the result is that we will have to pay probably a lakh of rupees for this building. In order to meet cases of kind, it is laid down that if the Corporation grant permission under sub-section (3) they may require the applicant to execute an agreement in accordance with the proviso to sub-section (1). We know our respective grounds, none of us need incur any loss; we can widen a street without having to pay unnecessary cost for acquiring substantial buildings. If a man is very rich and does not care how much he spends, well, in that case, he can enter into an agreement. There is a provision for that also. My hon'ble friend knows all these provisions. He will find in the proviso to sub-section (1) to section 304—"Provided that the Corporation may in their discretion permit additions to a building to be made within a street alignment, if such additions merely add to the height of and rest upon an existing building, etc., etc." Well, if you are rich and say, "Never mind, I want to go on with my house, I do not care for compensation, I am going to give an agreement that I shall not ask for compensation," you are at liberty to build. By all means do it! That is the arrangement. It is well known to my friend that the provisions are working nicely and smoothly. There is

also an arrangement like this in the Calcutta Improvement Trust of which my friend is himself a member. He knows perfectly well how smoothly it is working and for nothing he is objecting.

Rai JOGENDRA CHUNDER GHOSE Bahadur: May I speak?

Mr. PRESIDENT: I will not object now, but I hope in future you will rise before Mr. Mallik.

Rai JOGENDRA CHUNDER GHOSE Bahadur: I support the provision about the building line, the previous amendment about which, as you are aware, was negatived. I now support the proposal as regards the building line, but one thing strikes me, and that must be mentioned There must be a limit of time during which a person should be prevented from building on a street alignment. Unless that limit of time is prescribed, this provision cannot be supported, and it is admitted by Mr. Mallik himself.

The motion was then put and lost.

CLAUSE 305.

Raja RESHEE CASE LAW: I understand that Government have a proposal to make in regard to my amendment. So I beg to withdraw it.

The following amendment was, by leave of the Council, withdrawn.—

"That in clause 305(*1*)(*a*), line 1, for the words and brackets '(abutting on a public street)' the words 'falling within the street alignment' be substituted."

Mr. S. W. COODE: I move that in clause 305(*1*)(*a*) after the word "any" the words "portion of any" be inserted, and that the words "or portion thereof" in lines 2 and 3 be deleted.

The motion was put and agreed to.

CLAUSE 307.

Babu JATINDRA NATH BASU: I move that in clause 307(*c*), lines 1, 2 and 3, before the word "permanently" in the two places where it occurs, the words "temporarily or" be inserted.

Mr. S. W. COODE: I would accept the amendment on behalf of Government in the following form:—

"That in place of the word 'discontinue' the words 'or temporarily' be substituted."

Mr. D. J. COHEN: I accept the amendment.

The motion, as amended, was then put and agreed to.

CLAUSE 309.

The following amendment was, in the absence of the mover, to be withdrawn:—

SHAH SYED EMDADUL HAQ and Raja RESHEE CASE LAW: "To move that if motion No. 419 be carried, that in clause 309(1), line 4, the words 'and building line on each side of them' be omitted."

CLAUSE 310.

Mr. S. W. CODDE: As Shah Syed Emdadul Haq is not here, I move the next amendment standing in his name.

The following amendment was then put and agreed to:—

"That in clause 310, line 1, for the word and figures 'section 304' the words and figures 'sections 303 and 304' be substituted."

[At this stage the Chair was taken by the Deputy-President.]

CLAUSE 311.

Dr. PRAMATHANATH BANERJEA: I move that clause 311(2) be omitted.

Section 311 gives power to the Calcutta Corporation to acquire land and buildings for the improvement of public streets, squares, gardens, etc. The object is quite laudable. The Corporation should certainly have the power to acquire land and buildings for purposes which are advantageous to the community. But there is no reason why power should be given to the Corporation to make a profit in lands and buildings, even for purposes of recoupment. I do not think that people should be turned out of their ancestral homes unless there is an absolute necessity for taking such a step. Every member of this Council knows how fondly attached a Hindu or a Muhammadan is to his ancestral home. Besides, this provision would prove a great hardship to small house-owners, who are mostly poor or belong to the middle class of the population—at least in the northern part of the city. Once these persons are turned out of their homes, they will find it extremely difficult to purchase new houses. The inevitable result of this provision will be that poor house-owners will be replaced by speculators and rich landlords. There should, therefore, be a limit to the powers possessed by the Corporation. It may be said that, unless wide powers are

possessed by the Corporation, the improvement of the city will proceed at a very slow pace. Possibly this view is correct, but I would rather have slow improvement of the city than inflict hardship on the poor. I therefore urge that the Corporation should not be given the power to acquire lands or buildings for the purpose of recoupment.

Shah Syed Emdadul Haq being absent, the following motion standing in his name was deemed to be withdrawn:—

"That in clause 311(2), line 1, before the word 'sanction,' the word 'special' be inserted."

Mr. D. J. COHEN: I move that in clause 311(2), in lines 11 and 12, for the words "of any such improvement or project" the words 'incurred for any such purposes" be substituted.

This is the wording that has been suggested by Government in the place of the one on the paper, and I accept it.

Babu KISHORI MOHAN CHAUDHURI: In the absence of the Kumar Sahib, I move that the following proviso be added to clause 311(2), namely:—

"Provided that no more land than thirty feet in depth (or width) from any side of the proposed alignment of the land acquired under sub-section (1), shall be acquired for the purposes of this sub-section."

Rai Dr. HARIDHAN DUTT Bahadur: I rise to oppose both the amendments of Dr. Pramathanath Banerjea and Kumar Shib Shekhareswar Ray. To me it appears that there is some sense in the proposal of Dr. Pramathanath Banerjea and he is fighting on a principle, but the Kumar's proposal seems to be quite ridiculous. He suggestes that the Corporation of Calcutta should acquire land to the extent of 30 feet only on either side of a street alignment. Unfortunately he is absent, and I was disposed to ask him to tell us what he proposed to do with these strips of 30 feet depth of land on either side of the road. Would he suggest that the land should be made a free gift to the adjoining owners or that houses should be built on these lands? Well, I am glad my friend has come back. Will he kindly enlighten us on this point? Perhaps he does not know that under the building regulations anybody wishing to build on a roadside land will have to provide a minimum back space of 10 feet. How would he convert these 30 feet lands into building sites is very much beyond my comprehension.

As regards Dr. Banerjea's proposal, as I have already said, it is based upon a certain principle. I cannot, however, quite agree to support this amendment, because, if we do so, the Corporation of Calcutta will be very much crippled, and the Improvement Trust, which have been doing the work of a road-opening, will have to stop their

operations. Although there is something in the principle, in working it would be detrimental to the interests of the citizens of Calcutta and therefore, it should not be accepted.

Rai JOGENDRA CHUNDER GHOSE Bahadur: This provision for acquiring surplus lands is as old as the Calcutta Corporation itself.

Babu KISHORI MOHAN CHAUDHURI: I am asked by Kumar Shib Shekhareswar Ray to withdraw amendment No. 447.

Babu JATINDRA NATH BASU: May I rise to a point of order? I think there is no proposition before the Council for discussion.

Babu SURENDRA NATH MALLIK: My friend, Mr. Basu, inquires if there is any proposition before the House. I think Dr. Pramathanath Banerjea's amendment is before the House.

Mr. DEPUTY-PRESIDENT (Babu Surendra Nath Ray): Amendment No. 445 of Shah Syed Emdadul Haq has been withdrawn, No. 446 of Mr. Cohen has been accepted by Government, and No. 447 has just been asked to be withdrawn. No. 444 of Dr. Banerjea is still before the house. After Rai Jogendra Chunder Ghose Bahadur has spoken, I shall ask the Government member to reply.

Rai JOGENDRA CHUNDER GHOSE Bahadur: I am speaking specially on the amendment of Dr. Pramathanath Banerjea No. 444. This clause about surplus lands is as old as the Corporation itself. It also exists in the Improvement Trust law. When I was in the Corporation many years ago I knew that vast improvements were made practically by acquisition under this law, and without this Law many improvements would not have been possible and Bhowanipur would not have been habitable.

Babu SURENDRA NATH MALLIK: I think, Sir, that the amendment of Dr. Banerjea might be characterized as wholly impracticable. According to section 357 of the Calcutta Municipal Act, this is the law which has obtained for the last 30 years. The section runs as follows:

> 357. (1) The Chairman, with the approval of the Corporation, may acquire any land required for the purpose of opening, widening, extending or otherwise improving any public street, or of making any new public street, and the buildings, if any, standing upon such land.
>
> (2) The Chairman, with the approval of the Corporation and the sanction of the Local Government, may acquire, in addition to land and buildings acquired under sub-section (1), any land outside the proposed street alignment, with the buildings, if any, standing thereupon, which the Corporation may, in the exercise of any of the powers conferred by sub-section (1), consider it expedient to acquire.

That is the position. Therefore, it had been conceded long long before this that you have got to subordinate your own personal interests to the interests of the people as a whole. There is no question about that. It is also well known that our people have got a great love for their ancestral homes. It is there all the same. But the work of improvement of the town of Calcutta which the Corporation have got cannot, at the same time, be neglected, and the only way to do it is by recoupment. Not only that, there is another point which Dr. Pramathanath Banerjea absolutely forgets. Supposing there is a congested area; you cannot improve it only by opening out roads, but you must open out spaces on adjoining sides and make cross roads. You have got to do all that.

Dr. PRAMATHANATH BANERJEA: I would not object to all that.

Babu SURENDRA NATH MALLIK: I do not know what Dr. Banerjea means. Perhaps he apparently objects to the acquisition of more lands than is necessary for the roads. Without this it is absolutely impracticable to carry out improvements, and all the wonderful improvements that have been carried out by the Improvement Trust all over the town could not have been possible. Supposing there is a badly congested locality in Burra Bazar and the acquisition costs Rs. 1½ crores in regard to lands and buildings, road-making, sewerage, etc., the result of the local improvement will be that the whole town will have to pay for it. That is a most absurd idea, and I think my friend does not take all these matters into consideration. He says simply that we have to leave our own houses, but you have to do it for the necessity of the improvement and it has been accepted for a long time and it has been working well. The Improvement Trust has brought this matter home to everybody, small or rich, in this town, and after it has worked for 30 years, my friend comes here and says, "Do away with it; there is no good in it."

In the amendment of Shah Syed Emdadul Haq there is some caution, because he qualifies it by the insertion of the word "special." As regards the Kumar's amendment——

Mr. DEPUTY-PRESIDENT: He has withdrawn it.

Babu SURENDRA NATH MALLIK: Yes, I know. I believe he did not like to move it himself and that is why he practically left it to somebody else to do it for him.

The Hon'ble Sir SURENDRA NATH BANERJEA: On behalf of Government I must oppose all these amendments.

Mr. DEPUTY-PRESIDENT: There are only two amendments before the House, one of Dr. Pramathanath Banerjea and the other by Mr. D. J. Cohen, which Government are prepared to accept.

The Hon'ble Sir SURENDRA NATH BANERJEA: Quite so. The principle with regard to surplus lands has been in operation ever since the year 1876 and it seems to me to be a question of equity and justice. When the Corporation runs a broad street through a particular portion of Calcutta, the value of land on both sides of the street increases. Is it consistent with justice that the people, the value of whose lands is thus enhanced, should not contribute to the public funds for the increase in the valuation of their land? Have they any right to complain when they get a solatium of 15 per cent. over and above the value of the land? If we did not accept that principle, then the improvement of Calcutta would not have been what it is now. I may point out to my friend, Dr. Banerjea—he is acquainted with the history of English towns—that it was this principle which Mr. Joseph Chamberlain as Mayor of Birmingham introduced and the effect of which has been to make Birmingham, the great city that it is now. (Hear, hear.) It seems to be altogether a reactionary proposal and, I was going to say, unworthy of the liberality of the Minto Professor of Economics. I therefore hope that, having regard to the equity of the case, to the long-standing and universal practice obtaining in matters of this kind in the United Kingdom, my friend will see his way to withdraw the amendment.

The motion of Dr. Banerjea was then put and lost.

The motion of Mr. D. J. Cohen, as revised by him, was then put and agreed to.

CLAUSE 312.

Rai FANINDRALAL DE Bahadur: I move that in clause 312(7), line 6, for the word "Board" the word "Corporation" be substituted.

Evidently the Corporation is meant and not the Board of the Improvement Trust, which has nothing to do with the matter. It is perhaps a printer's error.

The Hon'ble Sir SURENDRA NATH BANERJEA: We accept the amendment.

The motion was put and agreed to.

Mr. D. J. COHEN: I move—

(i) that at the end of clause 312(7), the following be added namely

"having regard to the total cost of improvement work in question and the area benefited by such improvement."

(ii) that for clauses 312(4) to (8), the following be substituted, namely:—

"(4) In fixing the said fee, the Corporation shall determine the area which, in their opinion, may appear to be benefited by

the execution of such improvement, and apportion two-thirds of the whole cost of such improvement incurred by the Corporation among the several premises comprised in the said area in such proportion as the Corporation may think fit, having regard to the area, situation, and other conveniences of the said premises.

(5) The fee fixed shall be and remain a charge on the land and building, in respect of which the same may be fixed until the repayment thereof with interest as is hereinafter provided and may be payable by such instalments as may be agreed upon, and shall bear interest not exceeding seven per cent. per annum, such interest to run from such date as the Corporation may fix. Upon fixing of the fee the acquisition of the land shall be deemed to be abandoned."

Clause 312 empowers the Corporation to abandon an acquisition on an application made by any person having an interest in the land or building to be acquired and provides for fees being paid in consideration of such abandonment of acquisition. Sub-clause (5) says that such fee shall be payable on or before a date to be fixed by the Corporation in this behalf, and such date shall not be less than four years under section 5 of the Land Acquisition Act. There is, however, nothing in this sub-clause that will secure the Corporation against an owner of land or building who disposes of his property within the period of four years that is allowed to him to pay the fee. If, Sir, Government would accept this part of my amendment which says that the fee fixed shall be and remain a charge on the land and building, in respect of which the same may be fixed until the repayment, I shall be prepared to withdraw the rest of the amendment.

Mr. S. W. COODE: I understand Mr Cohen has withdrawn his first amendment.

As regards the last one, I think Mr. Cohen's point is very sound We do not accept the former part of this amendment which substitutes a new principle for the present system of recoupment. That is a total change of principle which requires very strong justification. The exemption fee system is well known to the people of Calcutta and I think it would require careful examination before we could suddenly substitute an entirely different system for that which now obtains.

We would, however, accept in part Mr. Cohen's second clause, which says that the fee fixed shall be and remain a charge on the land and building in respect of which the same may be fixed until the recoupment thereof with interest, etc. In the Bill as it stands, owing to an oversight we omitted to make the property at once liable to the exemption fee. The Bill, as it stands, states that the fee shall be fixed and shall be payable within a period not less than four years after such

fee has been fixed. But apparently there is nothing in this connection to prevent any person who has been required to pay an exemption fee, from disposing of his property to someone else, and then the security of the Corporation would vanish. In fact the Bill, as it stands, appears merely to give the Corporation security in the form of personal liability and does not appear to authorize the Corporation *ab initio* to pursue the property in the event of the exemption fee not being paid. I would therefore like to modify Mr. Cohen's amendment in the following terms:—

> " (5) Such fee shall be and remain a charge on the land, in respect of which it has been fixed, until the repayment thereof with interest in the manner hereinafter provided and . "

It will then follow, as in the Bill, the section which lays down the specific procedure for the recovery of the fee.

Mr. D. J. COHEN: I accept Mr. Goode's modified amendment and withdraw my own amendment in favour of it.

The motions standing in the name of Mr. D. J. Cohen were then, by leave of the Council, withdrawn.

Rai MAHENDRA CHANDRA MITRA Bahadur: I move that in clause 312(4), in line 5, for the word " two-thirds " the word " one-half " be substituted.

My reason for this amendment is that we find that by the opening out of a new road, the owner of the adjoining land is benefited as well as the public. I find from the report of the Building Commission which was presided over by Mr. Justice Trevelyan, that half of the cost of the improvement was realized from the owner. In these circumstances, I submit that it would be a bare act of justice if we fix one-half instead of two-thirds.

Dr. PRAMATHANATH BANERJEA: The object of this amendment is quite apparent. Section 312 relates to the abandonment of acquisition in consideration of a special value. When certain lands or buildings are not required for the purposes for which they were acquired, it is laid down in the section that the Corporation may abandon such premises or lands in consideration of payment of two-thirds of the valuation. My amendment seeks to reduce this amount from two-thirds to one-half. If the land is not required for public purposes, there is no reason why the Corporation should charge so much as two-thirds of the valuation. We know that valuation is always fixed very high. Besides, to compel poor house-owners to pay two-thirds of the valuation would be a great hardship on them. I, therefore, hope Government should see their way to accept this amendment.

Mr. D. J. COHEN: May I ask what is the proportion which the Improvement Trust take of the increment in value?

Mr. S. W. GOODE: No division of the spoil, so to speak, is laid down in the Calcutta Improvement Trust Act. The Improvement Trust is entitled to take the whole of the increment in value.

Babu AMULYA DHONE ADDY: I have much pleasure in supporting this amendment. The mover has very justly pointed out to us that the Calcutta Building Commission—a Commission which was appointed by Government and was presided over by the Hon'ble Justice Trevelyan—recommended that one-half of the increment in value should be realized from the owners of the adjoining lands. I also find, on reference to the proceedings of the meeting of this Council while the Calcutta Improvement Bill was under discussion, that this is also the law in England. As will appear from section 61 of the London County Council Improvement Act of 1899, it is only one-half which is realized from the owners of the adjoining lands. Under section 58 of the Tower Bridge Improvement Act of 1897, that is the law. Under the Town Planning Act of 1899 that is also the law. Now, what is the reason that the whole amount should not be realized from the owners of adjoining lands and buildings? The reason is obvious; by the opening of a road it is not only the owners of the adjoining lands and buildings who are specially benefited, but the public at large are also benefited. By the opening of a road we improve the sanitation of the locality, and there is also a legal obligation on the Corporation to open up roads. The owners of lands and buildings in a congested area have a right to call upon the Corporation to open up roads. Therefore it is right and just that not more than one-half of the increment in value should be realized from the owners of the adjoining lands or buildings. I am really sorry to find that Shah Syed Emdadul Haq has not moved his amendment No. 445. Had he done so, I would have supported it, because it requires the special sanction of the Government to authorize the Corporation to acquire surplus lands. Under the Act of 1888, there was a restriction to the authority of the Corporation in the acquisition of surplus lands; in the case of surplus lands of more than one hundred feet in depth the special sanction of the Government was necessary. But under the law as it is, there is no such restriction; the Corporation of Calcutta is authorized to acquire surplus lands irrespective of depth. I am sorry to inform you that it is not only to recoup the cost of construction of roads but also to make profit that surplus lands and even ancestral dwelling houses are acquired. Take the case of the Lansdowne Road extension. The length of the road is 1,200 feet; 5½ bighas of land were necessary for the opening of the road, but 24 bighas of land were acquired, and 18½ bighas of land were acquired not only to recoup the cost of the construction of the road, but also to make a profit out of it. It will appear from the estimate which was prepared by the Surveyor himself that the estimated profit was Rs. 12,000. It may be said that it is to the interest of the public and to the interest of the Corporation itself that the surplus lands were acquired, but at the

same time, should the Corporation trample down private rights in this way? It may be also said that the whole of this amount is not going to be realized from the owners of the lands—it is only two-thirds of the increment in value. I beg to submit that this concession is not a real one. It is apparent. If you do not exempt these lands from acquisition you shall have to pay the statutory allowance of 15 per cent. and it will take at least two years to execute that improvement work. We shall have also to pay interest on the amount invested in the acquisition of those lands, and taking the interest at 6 per cent. per annum, in two years it will be 12 per cent.; then for the loss of earnings the Corporation shall have to pay compensation; therefore about one-third of the increased value of the land will be lost by the acquisition by way of statutory allowance, by way of interest for two years, and by way of compensation for the loss of earnings. Therefore it will appear that this concession that appears in the Bill and which is at present allowed by the Corporation is no concession at all; it is an apparent one simply to throw dust in the eyes of the public at large. Therefore the suggestion that has been made by Rai Mahendra Chandra Mitra Bahadur is a sound one; he does not mean to say that no exemption fee should be realized; what he says is that the owners of these lands, especially of these ancestral dwelling houses, should be given relief to the extent of 50 per cent. on account of the improved value of the land. With these words, I beg to support this amendment.

Babu JATINDRA NATH BASU: I support the amendments that have just been moved and also move my own amendment, No. 454. When a locality is improved it is not only the owners of properties in that locality but the general public also that benefit by the improvement. The roads are used not only by the residents of the premises that abut on the new roads but also by the general public. If that is so, it is hardly fair to throw the burden of the entire cost of the improved road on the residents of properties adjoining the roads that are to be opened out. Sir, in most of the localities where the municipal schemes of improvement are carried out, the houses belong for the most part to people who cannot afford to pay large betterment fees. It would be practically driving those owners out of the town. Owing to the operations of the Calcutta Improvement Trust and of the Calcutta Municipality, Calcutta is becoming a city where people who have small holdings cannot reside, and this is one of the provision by which you are compelling these people, who have for generation and probably for centuries resided in the city, to leave it and to go elsewhere. The amendments propose that when by making improvements in a particular locality the holdings are improved, the Corporation should take from the owners thereof only half of the improved value. The clause in the Bill provides that the Corporation should take two-thirds of the improved value. As has been pointed out by Rai Mahendra Chandra Mitra Bahadur and

Babu Amulya Dhone Addy, the opinion of the experts is that only half should be charged to the owner and half to the public. I therefore support their amendments and withdraw the one which stands in my name.

Babu DEBI PROSAD KHAITAN: May I ask a question of the acting Chairman of the Calcutta Corporation, Sir? Is there any provision in the Bill whereby if a person who has to pay a compensation, is unable to pay it, the Corporation has the discretion to reduce the amount of such compensation? If there is no such provision, I would ask Government to consider whether they should not be given that power in the case of persons who have got to pay a betterment fee fixed by the Corporation but who are unable to pay the whole of it. So far as rich men are concerned, I do not see why they should not pay two-thirds as is provided in the Bill, but the case of the poor men may be considered.

Babu SURENDRA NATH MALLIK: I shall first of all dispose of the question raised by Babu Debi Prosad Khaitan—that the Corporation should be given discretion. How is that discretion to be given and how is it to be worked? The common idea is that it is the person that is paying, not the property. Never mind whether the property belongs to a Hindu or a Mussalman, whether ancestral or personal, it is due to the improvement of the property that this money is being demanded; where then arises the question whether you are in a position to pay? Then again, if that power be given here, how is it to be exercised? Is the Corporation in a position to find out whether A, B, or C is in a position to pay or not, or what amount they can pay? A roving mission of that character would be most mischievous for the Corporation to take up, and could not be thought of. We must proceed on a scientific basis. Let us take the land at the present moment. Take, for example, a new road like the Central Avenue. You buy a piece of land valued at about Rs. 1,500 or Rs. 2,000 a cottah; a new road comes alongside, with the result that your property has increased to the value of about Rs. 20,000 a cottah; you must deduct two-thirds of the value for the betterment fee and leave one-third. This is being done by the Calcutta Improvement Trust, and the Corporation has been working on these lines for some years. Here is a recognition of the principle that you should take more than one-third and that has been recognized in this section which was not there before. Therefore it must be remembered that it is the property and not the person who pays. A man who says he is unable to pay on account of a small property in the north of the town, may sell a property in the southern part of the town at a very large profit for all that we know. Have we got to institute an inquiry like a police inquiry to find out whether he is in a position to pay or not? That is a most absurd idea and absolutely unworkable. We must have one principle for everybody, rich

or poor. It is the only way in which we can have justice. If you cannot do that, at least do injustice equally all round.

As regards the point raised by Dr. Banerjea that there is no reason why the Corporation should not pay half and the owner the other half, I find that in all these arguments the idea seems to be that the Corporation is a particular individual who has inherited some money from his father. Who is this Corporation but yourselves—the whole of this town? Your land, which is worth Rs. 20,000 to-day, becomes Rs. 40,000 to-morrow, and for the betterment of that property, you expect the whole of Calcutta to pay and not yourselves! Then as regards the argument of Babu Jatindra Nath Basu, I wish he had looked at the question from the broader civic point of view, he has only looked at from the landlords' point of view; that is not the point of view to take. Because your property has been improved, why should the taxpayers pay for it? I know criticisms will be made, but the fact remains that this is the idea of those, I am sorry to say, who are landlords and something more than that. It is a mistake to think that the Corporation should pay. If your drain is out of order the Corporation comes and examines it and puts it right, and the Corporation pays, your roof is leaking, we examine it, who pays? You pay. If a drain is leaking the Corporation pays, your roof is leaking, you pay. In the case of the drain, the city is, it is the Corporation main, but when your land is improved, why should the Corporation pay? You cannot expect the Corporation to stop improvements, it is bound to be done and therefore your must pay, or you must have a larger amount of taxation from which you can pay for these. Either of these consequences must follow; it is as clear as night follows the day, either you must give up all idea of improvement, or you must raise the rates higher and higher.

My friend, Babu Amulya Dhone Addy, has said something which I was astonished to hear—that the Corporation makes a large profit out of these transactions. I challenge him to mention one single scheme in which we made any profit. He of all persons knows that we have had to give up many big schemes because we have not got the money. He says we make a profit of Rs. 10,000 on each scheme; that multiplied by 20 schemes, makes a profit of Rs. 2 lakhs; would we give up these schemes if we were making such a profit? The Corporation consists of many sensible businesslike men; should they have refused this profit?

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The proposal here is to legalize the proportion which a man has to pay for the improvement of his property, and there is no reason why, considering all the facts and circumstances, a man should not pay two-thirds as betterment fee, seeing that his property has been immensely improved.

Babu AMULYA DHONE ADDY: I wish to withdraw the following amendment, which stands in my name, in favour of No. 456:—

"That in clause 312(*6*)(*i*) and (*ii*), lines 4 and 6, respectively, for the words 'seven per cent.' the words 'six per cent.' be substituted."

Raja RESHEE CASE LAW: With your permission, Sir, I move that in clause 312(*6*)(*i*) and (*ii*), lines 4 and 6, respectively, for the words "seven per cent." the words "five per cent." be substituted, and if motions Nos. 456 and 457 be carried, that in clause 312(*10*), line 5, for the words "seven per cent." the words "five per cent." be substituted.

My reason for these amendments is that when corporate bodies are given a discretion to assess a rate of interest their tendency would generally, in their own interest, be to fix it at the maximum rate allowable under the statute. It is scarcely necessary to point out that the high percentage of interest now prevailing would not continue after a few years when things settle down, so that the loss incurred on account of the high rate of interest payable on present loan, necessary for effecting improvements, would be more than covered by the excess amount earned when the rate of interest on loans will fall back to the pre-war level. Moreover, the exemption fee would cover a considerable amount of the capital outlay, which in some instances may cover the whole cost. And as in any view of the matter the interest is being paid by the former owner on really the increased value which the Corporation has fixed on it, the percentage of interest should be as low as possible.

Babu JOGENDRA NATH ROY: Very few words are required to support this amendment. There are various clauses in this Bill which curtail the rights of the owners of land in Calcutta. There is a provision by which the Corporation can ask a land-owner to leave a portion of his land because it encroaches on an imaginary alignment of which he was not aware. Then again he may be required to allow the Corporation to acquire the remaining portion of his land or building not only for the purpose of opening, widening, extending, or otherwise improving any public street, square or garden or of making any new public street, square or garden, but also for the recoupment of the costs or any portion of the costs of any such improvement or project!

The framers of the Bill must have been aware of the hardship that this provision would put the land-owners to, and that is why they have made the concession that the exemption fee may be paid by instalments or left outstanding as a charge on the land, subject to the payment of interest. It is sought to fix the rate of interest at 7 per cent. This Sir, is an exorbitant rate, considering the circumstances under which the money has to be paid and also considering the fact that as long

as this charge on the land holds good, his right to raise money on it is considerably hampered. I, therefore, propose that the rate of interest be fixed as "not exceeding 5 per cent. per annum."

Babu AMULYA DHONE ADDY: I support these amendments. Under the existing law the rate of interest is 4 per cent., under the Calcutta Improvement Act it is 4 per cent., and under the Original Bill it is 6 per cent., but I am extremely sorry to find that the Select Committee has thought it fit to raise it to 7 per cent. It may be said that the words are "not exceeding 7 per cent." and therefore the Corporation may reduce it even to 4 or 5 per cent., but, Sir, I am afraid the Corporation will not do so; on the contrary, 7 per cent. would be regarded by it as the minimum and not the maximum. Had it been the case of a loan advanced to a private party for the erection of buildings, it would have been quite justified in asking for reasonable interest, say, 6 or 7 per cent., but this charge represents the interest not on any loan or on any advance, but on exemption fees, on fees for exemption of lands from acquisition, fees for exemption from acquisition of ancestral dwelling houses. Therefore the Corporation should be very moderate, especially when it is going to realize two-thirds of the increased value for recouping the cost of the construction of roads.

As regards the profit which the Corporation makes out of such transactions, I may be allowed to make a personal explanation. In the case of Alipore Park Road East, the General Committee of the Corporation, on my suggestion thought it fit to widen the road from 30 feet to 40 feet, and the owners of the adjoining lands, including a poor widow, have been called upon to contribute towards the cost of this scheme. One person has been forced to pay Rs. 7,000 as exemption fee but the Corporation has not as yet widened the said road. Therefore I would suggest that the rate of interest in such cases should be moderate and 5 per cent. may be fixed, and I may again draw your attention to the fact that even under the present Act it is 4 per cent.

Dr. PRAMATHANATH BANERJEA: I desire to support the amendment of Raja Reshee Case Law. He has fully discussed the question, and I do not think it necessary to add any words to what he has already said. As many of the people who are de-housed by the operations of the Calcutta Improvement Trust and the Calcutta Corporation, are poor, it is desirable that the rate of interest that may be levied on fees payable for the exemption of land from acquisition should be fixed as low as possible. I, therefore, hope that 5 per cent. should be regarded as quite sufficient for the purpose.

Babu DEBI PRASAD KHAITAN: I would like to say only a few words, as I believe that the discussion on this question has turned upon a misapprehension of the whole situation. The words used in the Bill are "not exceeding 7 per cent. per annum." I think the reason is

simply this, that it is not desirable for the Corporation to keep these credits outstanding more than is absolutely necessary for it to do. If the Corporation finds that there is a poor man who is really unable to pay and who deserves consideration, it has the power to charge 2 or 3 per cent. per annum, but if there is a rich man who is to pay and the rate of interest charged by the Corporation does not exceed 5 per cent., what will be the result? The result will be that though he is able to pay off the whole amount he will elect not to do so, as he will have to pay interest at the rate of 5 per cent. only, while he will receive more than 5 per cent. on his own loans. Therefore he would be inclined to make profits in other directions, while the Corporation will have to keep its account outstanding with him for an indefinite period of time. So far as a poor man is concerned, the Corporation has the discretion; but so far as the rich man is concerned, I do not see any reason why the Corporation should help him not to pay his debts by reducing the amount of interest. The Corporation should not do so at the present moment, seeing that it itself has floated a loan at 6 per cent. per annum

Mr. KRISHNA CHANDRA RAY CHAUDHURI: This has really nothing to do with the rich or poor. It is a question of banking. We all know what the present rate of interest is, we are charged on money borrowed from Banks at the rate of from 8 to 10 per cent. These gentlemen who claim lower interest, will any of them tell me at what rate of interest they lend money? Most of them charge nothing under 10 per cent., and yet they expect that the Corporation should charge less than 7 per cent.

Mr. Amulya Dhone Addy and others have been trying their level best to uphold the hereditary principle of unearned increments, they have inherited money and property from their forefathers; they never earned it; and on the same principle that they wanted one-third instead of two-thirds of the betterment fee and they now want to pay 5 and 6 per cent. instead of 7 per cent These people do not give anything to the public, and they want a gift from the people.

I am surprised at Dr. Pramathanath Banerjea, our Minto Professor of Economics upholding a principle of this sort. This gentleman comes forward and says that the Corporation must give them something which will greatly increase and improve the value of the land, and the owners do not want to pay anything towards this improvement

Mr. HUSEYN SHAHEED SUHRAWARDY: I am afraid Babu Debi Prosad Khaitan has misunderstood the speech of Mr. Mallik which he delivered on the last amendment. The Corporation does not wish to exercise any discretion in favour either of the rich or of the poor, but would like to deal with all these classes alike, and I do not think the Corporation would be prepared to charge a lower amount of interest

upon the poor as Mr. Khaitan thinks. As a matter of fact, if the rate is put down at 7 per cent., the Corporation would be inclined to charge as much money as it can possibly get. But I support this amendment on the ground that the Corporation is making no rehousing schemes to counterbalance the disadvantage of those poor people who are dispossessed of their homes. I take it that the improvements will generally pass through poor localities, and therefore it is the poor with small holdings who will be most largely affected. So it would be far better if they were relieved of the necessity of paying 7 per cent., which appears to be the prevalent rate of interest at the present moment. Then again, the market rate may fall in future, therefore, I think the Corporation will do well to lower the rate to 5 per cent, considering the fact that the Improvement Trust have thought it fit to charge only 4 per cent and are still charging 4 per cent from the owners whom they have dispossessed.

Rai MAHENDRA CHANDRA MITRA BAHADUR: I wish to submit that rules and laws should be uniform and so we should not draw any distinction between the rich and the poor, there cannot be favouritism either for the one or for the other. When an act is enacted we must be careful to fix what ought to be the rate of interest, that is the principle which is acted upon in the framing of laws, and if Mr. Khaitan comes forward to say that municipalities should exercise their discretion in these matters, I think he is wrong.

Then the next question is whether this rate is to be fixed at 4, 5, 6 or 7 per cent. If you give authority to the municipalities to charge a higher rate, what will be their inclination? The Corporation will be inclined to demand interest at the highest rate. Therefore it is safe for the Legislature to fix a lower rate of interest.

Babu SURENDRA NATH MALLIK: There is a misapprehension which should be cleared up, there seems to be an impression that according to the clause as it stands, we must charge 7 per cent., nothing less; that is not so. Why do you presume that the municipal commissioners who will carry out the purposes of this Act are so many monsters sitting down and always doing things that are improper and to the detriment of the interests of the ratepayers? Quite recently, the Corporation tried to borrow money at 7 per cent., and we failed in India to get more than 97 per hundred, we went to England and we got the money at 6 per cent., which, taken together with the working expenses, comes to 6½ per cent. Is it proper, is it fair for us, who are the custodians of public money, to be bound by a statutory declaration not to charge more than 5 per cent? Who will pay in the end? We charge a smaller interest, we have to pay a larger amount, and in the end the taxpayers have to pay. All these things have to be looked at from a broader point of view. The Corporation have to carry out many improvements, such as drainage, etc., on which, more often than not,

we do not charge any interest at all. Why do you presume that the men on the Corporation are so many monsters? That is the most unfortunate part of it. [Question!] It is no question at all; it is only common-sense; I have nothing to do with that; I only congratulate him if he does so.

My friend, Mr. Addy, and the Raja and others well know that there are instances in which these betterment fees are not being paid, and are being held up, not by poor men. One of these amounts to Rs. 1,18,000 and has not been paid for years because the man thinks he can easily get 18 per cent. from his banking business on this amount, rather than give it to us. This man is well known to my friends. Are we going to encourage this? Babu Amulya Dhone Addy wants 5 per cent.; would this be justice to the ratepayers? What we have got to do is to look at it from a broader point. Everyone, even the poorest, pays 19½ per cent.; if you lower the interest on this charge, it means all, even the poor, will be called upon to pay 20 to 21 per cent. Is it fair to give away large sums of money to those who can afford to pay, and those who have got their property bettered, and are getting anything over 10 per cent. by holding up this money and not paying? Why should we be paid at 4 or 5 per cent. when we ourselves borrow at 6 per cent., and they are getting even 18 per cent.?

I simply appeal to the sense of justice of the House; is this the way in which municipal money is to be looked after in this Council? There is another point. My friend, Mr. Addy, has said that under the present Act the rate is 4 per cent.; that is a perfectly misleading argument. This Act was passed when we ourselves could get money at 3¼ per cent. When one can get money at 3½ per cent. in this country [A voice: Question!]. Whatever my hon'ble friend may question, everybody does not lend money at the high rate of interest which some people charge, and therefore at that time we, in the Corporation, were getting money at 4 per cent. debentures. Those debentures are still there and I need not talk about it any more. It comes to this: that in 1911 you could get money at 4 per cent. In 1899, when this Act was passed, you could get money at 3½ per cent. or 4 per cent. But now we cannot borrow money except at 6 or 7 per cent. Therefore we want to say in the Bill "not more than 7 per cent." Leave it to our discretion. These matters will be settled by financial experts like my hon'ble friend, Raja Reshee Case Law, and others. Merely because you have got the power to put an amendment you should not try to cut things down in such a way. Why should you not depend on the honour and the sense of duty of the Corporation?

Raja RESHEE CASE LAW: May I ask my hon'ble friend a question? The Corporation loans run for 30 years, and if after four or five years the rate of interest comes down to 4 per cent., will the Corporation go on charging the ratepayers 7 per cent.?

Mr. SURENDRA NATH MALLIK: I am very sorry that I missed that point in my speech. I may say at once that if after, say, five years, the rate of interest comes down to 3½ per cent., then it would be the easiest thing to bring in an amendment to reduce the charge of rate-payers, and there is no doubt that we shall all agree to accept it.

The Council was then adjourned for 15 minutes

After the adjournment.

Mr. S. W. GOODE: In the first instance I would like to point out that in this case, as in many others, my friend, Mr Addy, has produced a most misleading analogy. I suggest that it is only fair to the House that he should attempt to verify his facts before he speaks and that he puts me under the obligation of showing that the analogy which he has attempted to draw from the English practice is misleading and does not apply in the slightest degree to the practice in Calcutta He has solemnly told us that in England it is the practice for half the enhanced value produced by the improvement to be levied from the owners of properties affected, and he has suggested that that is a good reason why you should adopt a similar percentage in Calcutta. He entirely ignores the fact that in Calcutta we have a system which is known as the exemption-fee system, whereas in England and in Bombay, you find the betterment system If he had taken the slightest pains to study any literature on the subject, he would have seen that there is a world of difference, between these two systems. The Calcutta system is unique No other town in the British Empire possesses it. In Calcutta we have the system of negotiation with the owner of the property concerned The Corporation may say to the owner that they wish to acquire the land of which the value has been appreciated or will be appreciated by the improvement which they are about to make And here let me say that it is only fair in the public interest that a considerable portion—in fact the Corporation now say, the whole portion—of the enhanced value of the property should be credited to the public purse. The Corporation have created that improvement. The owner has for so many years possessed this land without making any effort to increase its value, and now, when the Corporation have stepped in and are proposing to carry out a scheme which will be to the benefit of the public of Calcutta, is it fair that he should demand that no portion of this enhanced value which the efforts of the Corporation have produced, should be left to them? The Corporation, however, now wish to diverge slightly from that system. We propose in this Bill to give the owner one-third of the increased value Mr. Addy, quoting from the English system, suggests that the percentage should be half. He entirely forgets that in Calcutta, it is the system of negotiation, the system of bargaining, that is in vogue. You say to the owner of the house: "If you are prepared to pay such a fee, which we estimate as being two-thirds of the increased value produced by our improvement, we

will allow you to exempt your property." The owner in reply can say, if the fee which has been fixed is unjust: "I will not pay this fee. You must acquire the whole of my property and give me 15 per cent. as an additional *solatium*." The Corporation are bound to agree—are bound to lock up their money in an acquisition which they are not anxious ordinarily to undertake. How does this system compare with the English system? In England it is termed the betterment system. There the public body says to the party concerned: "We estimate that an improvement in value will be produced by our project. We are not able immediately to estimate what that enhanced value will be, but we direct that when that value is fixed, when it is established some years hence by precise valuation based on facts then whether you wish it or not, you will be required to pay one-half of that fee to us." They do not say: "If you do not wish to pay, we will take up the whole land." They do not give that alternative to the unfortunate owner. He is compelled, whether he wishes it or not, to keep his land and pay his fee. Surely that is a very different system from the system of negotiation or bargaining which for so many years has been the practice in Calcutta. Under that, the owner of the property enjoys certain solid advantages which are denied to his English brethren; and Mr. Addy—I do not say deliberately, but carelessly—has attempted to mislead this House by suggesting that there is some parallel between the practice as enforced in the two countries. This, Sir, is largely a landlord question. Mr. Addy from the beginning of this Bill has been fighting step by step for the privileges of the class which he represents and he is being driven from position to position, and his amendments, I regret to say, are almost invariably actuated—I will not say actuated—at any rate bear the brand of landlordism, and surely this amendment more than anything shows that he is desirous not to assist the Corporation in important duties which they have to perform, but of safeguarding the valuable interests which he represents. It is quite reasonable that he should. He is in this Council as representing certain interests, and no one can complain if he desires to press these interests upon the attention of this House. But I do suggest that it would be well if he sometimes raised his arguments above the plane to which they have been hitherto ordinarily restricted.

I understand that many of the hon'ble members of this House are inclined to adjudge this question by this criterion—will it benefit the poor or the rich? I understand from conversations I have had with certain members of this House that they are prepared to vote for this amendment if they think it will be for the benefit of the poor. On the other hand, they are prepared to repudiate it if they think that it is in the interests of landlords. I am unable to say that this amendment may not be used by the Corporation to assist the poor, but I do say most emphatically that very strong influence would be brought to bear on the Corporation to use this amendment, if it is carried, in the

interests of the rich. We all know that a very large portion of Calcutta is in the hands of certain big landlords. I do not deny that there are poor *bhadralog* landlords who by hook or crook have managed to hang on to their little bit of land, and for people of that class I maintain, the Corporation have always shown the fullest sympathy and consideration. But a very considerable portion of Calcutta is in the hands of the rich. You have merely to look round and see the large number of *bustees* which still hinder improvement. Are they not the property of rich men? Where do the interests of the poor come in with this kind of property? Mr. Basu has suggested that it is this practice of demanding a large exemption fee from the owners of lands which has hindered the development and improvement of Calcutta. I do not believe for a moment that the exemption fee has had anything to do with the slow progress which Calcutta has made in developing its large surplus areas. On the other hand, if the Corporation had been able to proceed with their improvement schemes—if financial considerations had not intervened, we would undoubtedly have seen these areas developed and built over and the price of land would have fallen. Why is it that land in Calcutta is about ten times as expensive as in many cities of England? I would refer to the hon'ble members of this House to a certain estate in the heart of Dhakuria. The land there, I understand, is being offered by a Development Company at Rs. 850 per cottah. Now Rs. 850 per cottah in English money would mean about £3,000 per acre. On the other hand, I may tell the House that development schemes within nine miles of Charing Cross have been carried out with profit to the public bodies concerned. How is this being done? Because lands in these areas are worth only Rs. 50 per cottah. Why is there this difference? Merely because London is being developed more rapidly, suburbs are being extended from time to time, whereas in Calcutta the Corporation have no funds and Calcutta has remained stationary in respect of the development of its suburbs. Now, if you are going to place a much heavier burden on the Corporation if you are going to say to them that unless you give half of this enhanced value to the landlords, you cannot proceed with the improvement schemes, what will be the result? The condition of Calcutta will be still worse, and we shall find that this improvement which we all earnestly desire will be relegated still further to the distant future. Why should the Corporation give any of the enhancement in value to the landlord? What right has he to it? The Corporation create the improved value by their schemes and it is the Corporation who, in the public interest, should be entitled to the whole of the sum which their work creates. Is it not sufficient compensation that the Corporation give 15 per cent. to the landlord? You are aware that the Improvement Trust Act was drafted deliberately with the idea that in the matter of public improvements it was not fair that any portion of the enhanced value should be wasted upon the owners of the properties. It is only recently that

we have gone back to the principle of 15 per cent. in respect of the Improvement Trust Act, but let me point out that in 1918 a most representative body of experts in Great Britain was appointed to consider the whole question of the acquisition of land for public purposes and their opinion must carry great weight and they unanimously recommended to Government that no *solatium* should be given to the owners of property when land is acquired for public purposes. Now, Sir, if under this English parallel—and here I am making a correct parallel—if under this parallel a *solatium* of 15 per cent. is not considered desirable, how much less desirable it is that one-half of the improved value should be made over to the owners of properties who have not had the initiative to develop it themselves? I think, therefore, that there is very little force in the arguments that have been advanced by Mr. Addy. As for the other amendments, I would tell the movers and the House that the amendments are not for the benefit of the poor but for the benefit of the rich, and I would tell them that they should realize that if these amendments are carried, there would be no doubt that they would be used in the interests of the rich rather than for safeguarding the interests of the poor.

Babu AMULYA DHONE ADDY: May I rise to a point of personal explanation, Sir? It has been alleged that I mislead the Council as regards the analogy of the English Act, but I beg to submit that I have quoted a portion of the Hon'ble Mr Bhupendra Nath Basu's speech which he delivered at a meeting of this Council on the Calcutta Improvement Bill. His opinion was supported by the Hon'ble Sir Deba Prasad Sarbadhikari and was not questioned by the Hon'ble Mr. Bompas, the Member in charge of the Bill

Mr. PRESIDENT: Those are great names indeed, Mr Addy, but it is just within the range of possibility that they were misled too

Babu AMULYA DHONE ADDY: Then, Sir, it has been urged that I was only supporting the landlords of Calcutta, but, I was only pressing before the House the views of such public associations as the British Indian Association and the Bengal National Chamber of Commerce, and I must say I am bound to support those views— —

Mr. PRESIDENT: This is not a point of explanation, Mr. Addy. Nobody's views are better known to this House than the views of the Bengal National Chamber of Commerce and the British Indian Association. (Laughter.)

The Hon'ble Sir SURENDRA NATH BANERJEA: Whether this be a question as between landlords and the poorer section of the ratepayers of Calcutta, I am sure that every member of this House, be he a landlord or otherwise, will do his duty towards the ratepayers and the

Corporation. It is not a question, as I take it, between landlords and tenants. It is a question of the safe-guarding of the financial interest of the Corporation, which means the financial interests of landlords and tenants alike. Further, it is a question of justice as between landlords and tenants and I presume we, the representatives of the people, are here to do that which is right and proper. How does the case stand? We have heard a most illuminating speech from Mr. Goode I am sure my ideas have been enlightened and broadened by what Mr. Goode has told us. The situation is this. The Corporation improves a piece of land, the landlord or the owner has been doing little or nothing in respect of it. The Corporation improves this piece of land by money which is the property of the ratepayers the rich and the poor alike. The money of the ratepayers is invested in the improvement. Obviously whatever the enhanced value may be as a result of that improvement, it should go to the common fund of the rich and the poor, namely, the fund of the Corporation. That is justice, natural justice, as we know it. But in this case, the Bill goes a step further and wants to make over one-third of the enhanced value to the owner, notwithstanding the fact that he has done nothing, notwithstanding the fact that the Corporation is fully entitled as a matter of justice to the whole value of the improvement. This seems to me to be equitable, more than equitable, it is indeed generous It seems to me that landlords have no further right to complain It seems to me that any attempt to reduce the proportion from two-thirds to one-half would be unjust, and inequitable, and I am surprised I again turn to my friend, the Minto Professor of Economics that he should associate himself and his reputation with a proposal of that kind which is unfair to the interests of the ratepayers, unfair to the poorer inhabitants of this great city. I hope and trust that this question will not be pressed. If you pass the amendment, you emasculate, you unjustly reduce the fund of the Corporation, which is the fund of the poor as well as the rich I say, you will retard all improvements Are you prepared to do that? I appeal to the landlords and to the representatives of the poor man in this House not to take a step the effect of which would be to perpetuate an injustice to the Corporation fund and to postpone improvements which it is most desirable should be introduced. I put it upon a double basis, a two-fold footing. I appeal to every member of this House to rise to the height of the occasion and do his duty. I know what the vote of the House will be. I trust it will be a unanimous vote rejecting the amendment.

The motion of Mr. Goode was then put and agreed to

The following motion was then put and lost:—

"That in clause 312(4), line 5, for the word 'two-thirds' the word 'one-half' be substituted."

The following motions were, by leave of the Council, withdrawn:—

Babu JATINDRA NATH BABU to move that in clause 312 (*4*), line 5, for the word "two-thirds" the words "not more than one-third" be substituted.

Babu AMULYA DHONE ADDY to move that in clause 312(*6*) (*i*) and (*ii*), lines 4 and 6, respectively, for the words "seven per cent." the words "six per cent." be substituted.

The following motion was then put and lost:—

"That in clause 312(*6*) (*i*) and (*ii*), lines 4 and 6, respectively, for the words 'seven per cent.' the words 'five per cent.' be substituted."

The following motions were covered by previous decisions of the Council and were not put:—

Mr. D. J. COHEN to move, if motion No. 450 be carried, that clause 312(*9*) be renumbered as clause 312(*6*) and in line 2 of that clause as renumbered, for the words "in pursuance of sub-section (*6*)" the words "as aforesaid" be substituted, and that clause 312(*10*) be omitted.

Babu AMULYA DHONE ADDY to move, if motion 455 be carried, that in clause 312(*10*), line 5, for the word "seven" the word "six" be substituted

Raja RESHEE CASE LAW and Babu JOCENDRA NATH ROY to move, if motions Nos 456 and 457 be carried, that in clause 312(*10*), line 5, for the words "seven per cent" the words "five per cent" be substituted.

Mr. D. J. COHEN to move, that if motion No 450, be carried, that in clause 312(*9*), line 2, for the words "in pursuance of sub-section (*6*)" the word "as aforesaid" be substituted.

CLAUSE 313

The following motions were covered by previous decisions of the Council and were not put:—

Babu AMULYA DHONE ADDY to move, if motion No. 455, be carried, that in clause 313, line 7, for the word "seven" the word "six" be substituted.

Raja RESHEE CASE LAW and BABU JOCENDRA NATH ROY to move, if motions Nos. 456 and 457 be carried, that in clause 313, line 7, for the word "seven" the word "five" be substituted.

Mr. D. J. COHEN to move, if motion No 450 be carried, that in clause 313, lines 2 and 3, the word, brackets and figure "sub-section (*6*)" be omitted.

CLAUSE 314.

The following motion was covered by a *previous decision of the* Council and was not put :—

Mr. D. J. COHEN to move, if motion No. 450 be carried, that in clause 314, line 3, the words, brackets and figure "sub-section (6)" be omitted.

CLAUSES 315 AND 316

Rai Mahendra Chandra Mitra Bahadur being absent, the following motion standing in his name was deemed to be withdrawn:

"That the proviso to clause 315(2) be omitted."

Babu AMULYA DHONE ADDY: I move that for the proviso to clause 315(2), the following be substituted, namely:

"Provided that the Corporation may allow a private street to be made or laid out of a width of less than 20 feet."

It will appear from the provisions of clause 309 that the width of a projected public street shall not be less than 40 feet and that under clause 315 the width of a private street also shall not be less than 40 feet because the provisions of this Act as regards the width of a public street shall apply in the case of private streets. So I draw the attention of the House to the definition of private street. It will appear that under this definition even a common passage is a private street. If there is a passage leading to four or five houses even belonging to the same person, it is a private street. But under clause 315 the width of this common passage is to be 40 feet. But there is a proviso under which the Corporation may allow a private street to be made of a width less than 40 feet but not less than 20 feet, and if the street is less than 200 feet in length, the maximum width of such street may ordinarily be taken to be 30 feet instead of 40 feet. What I beg to submit is that in the case of a private street the Corporation should be authorized to reduce the width even to less than 20 feet. I admit that there should be some restriction in the case of width of private streets. Suppose a person has a big plot of land, generally he keeps a common passage of 5 to 7 feet in width. This might increase the congestion of the locality and that is the reason why some provision should be made. At the same time, if under this clause the width of a street is 40 feet, that will debar a person from developing his own property. That is the reason why the number of private streets which have been constructed under the existing Act is very limited. What I submit is that we should have some provision under which the owners of private properties might be encouraged to construct private streets. What is done by the Calcutta Corporation itself in the case of back lands? The Corporation keeps a

passage leading to the back land, but the width of that passage is not 30 or 40 feet as contemplated by this Bill but is only 8 feet; but if a private person keeps such a passage, the width of that passage is to be 20 to 40 feet. There are several amendments under this clause. Rai Fanindralal De Bahadur has suggested 15 feet and Dr. Pramathanath Banerjea has suggested 12 feet. So it will appear that my suggestion is very moderate. What I beg to submit is that it should be left to the discretion of the Corporation to fix the width of the street, and in special circumstances the Corporation may be authorized to reduce the width of the street to even below 20 feet.

Rai FANINDRALAL DE Bahadur: I move that in the proviso to clause 315(2)—

(1) in line 3, after the words "twenty feet" the following be added, namely:—

"and in the case of a *bustee* not less than fifteen feet."

(2) in the last line, for the word "thirty" the word "twenty" be substituted.

There may be private streets in *bustees* also and special provisions should be made for them. Section 309 of this Act provides for the minimum breadth of a public street in a *bustee* to be 16 feet; a private street need not be broader; moreover, 15 feet is quite sufficient even for two motor cars to pass side by side. This is why I propose this lower limit for private *bustee* streets. Where the length of the private street is less than 200 feet, the maximum width is reduced to 30 feet in the proviso; in case of private streets in the *bustee*, there should therefore be proportional reduction. I propose it to be 20 feet. It is quite sufficient for the purpose.

The following motion was, by leave of the Council, withdrawn:

Dr. PRAMATHANATH BANERJEA to move that in the proviso to clause 315(2)—

(i) line 3, for the word "twenty" the word "twelve" be substituted; and

(ii) line 6, for the word "thirty" the word "twenty" be substituted.

Babu JATINDRA NATH BASU: I move that in the proviso to clause 315(2), last line, for the words "thirty feet instead of forty feet" the following be substituted, namely:—

"twenty feet instead of forty feet, and in a *bustee* the Corporation may reduce the width of such street so as to be not less than sixteen feet."

In the proviso to clause 315 the Corporation has been given the power to allow a private street (where the street is less than 200 feet

in length) to be of a maximum width of 30 feet instead of 40 feet. I desire to substitute 20 instead of 30 feet, because in a street of 200 feet or so in length, there are not likely to be more than three or four houses, and a street of 20 feet in width is quite sufficient. Where there is a road of 200 feet in a *bustee*, I have proposed that the road should not be less than 16 feet wide instead of 20 feet, because in *bustees* the roads are temporary, and a width of 16 feet for such temporary roads is quite enough.

Babu SURENDRA NATH MALLIK: This motion of my friend, Babu Amulya Dhone Addy, has made me very sorry for this reason. This matter was thoroughly discussed in the Select Committee—now there is no secret about it. We all discussed it and then we agreed to put in that "if the street is less than 200 feet in length, the maximum width of such street may ordinarily be taken to be 30 feet instead of 40 feet." My friend said that he was very happy, and now he puts in this amendment. What can be done? You discussed it for hours together and then you came to a sort of understanding and you were quite happy with that, and now you put in this motion in a bunch of 500 motions. This is certainly not fair to us. I must object to this on the ground that what is a private street to-day might be a public street to-morrow, and what is a *bustee* passage to-day might be a public street to-morrow in Calcutta. We are out for improvements. We should make those roads at least such as to allow for a decent traffic there. In these days of motor cars, suppose two cars come from two sides; in order to make the street least dangerous to the people, there must be sufficient space, and a space of 16 feet is barely sufficient for two cars to pass, and there must be 2 feet on either side for pedestrians. That makes 20 feet. If you do not allow these things, what is the good of improving these things at all? We say that the minimum should be 20 feet. We further say that such streets, if less than 200 feet in length, may be 30 instead of 40 feet in width. If we see that a particular street has a future before it, we might say: "Look here, this street cannot be made less than 30 feet wide." It all depends on the circumstances of a particular case. In this way we use our discretion in the Corporation. What is the good of objecting to everything? It is not fair to take up a piece of paper and write out an amendment even after you agreed to that section, and not only you agreed, but you congratulated us on our attitude.

The motions were then put and lost.

Raja RESHEE CASE LAW: I move that after clause 315, the following be added, namely:—

"(6) If within ninety days after the receipt of any notice under sub-section (*1*) or within ninety days of receipt of any further information asked under sub-section (*3*) the Corporation has neither granted nor refused sanction, it shall be

deemed that the sanction for the lay out of the new private street has been granted."

I also move that at the commencement of clause 316 the words "Except as provided in section 315, sub-section (6)" be inserted.

Mr. S. W. COODE: I am willing to accept the principle of the Raja Sahib's first amendment, but I would suggest the following amendment in place of the Raja Sahib's amendment:—

"(6) If within ninety days after the receipt of any notice under sub-section (1) or within ninety days after the receipt of any further information asked for under sub-section (3) the Corporation has not refused sanction to the making of the private street, it shall be deemed that sanction to the same has been granted."

As regards his last amendment, we would accept that with a slight change in drafting:—

"Except as provided in sub-section (6) of section 315."

The motions, as amended, were then put and agreed to

CLAUSE 322.

The following motions were, by leave of the Council, withdrawn:—

Dr. PRAMATHANATH BANERJEA to move that clause 322 be omitted.

SHAH SYED EMDADUL HAQ to move that clause 322(1) be omitted.

Babu AMULYA DHONE ADDY: I move that in clause 322(5), line 2, for the words "three years" the words "one year" be substituted

It may be said that in the case of plumbers the period of license is three years. But I beg to submit, that these provisions have been copied from the Bombay Act, and under the Bombay Municipal Act the period of a license is one year only. My object in fixing the period of one year is this: that the Corporation may exercise more control over these surveyors, especially as these surveyors are going to be newly appointed and especially as very coercive measures are going to be taken against those persons who are going to build new buildings because unless they can produce a certificate of such a licensed building surveyor they will not be allowed to occupy even their own houses. As regards the charges of these licensed building surveyors, it has been rightly pointed out by the City Architect at a meeting of the Bill Sub-Committee that even if there is no such provision they charge

even up to 5 per cent. of the cost of construction of a building. With this provision they will certainly charge more and there is likely to be abuse. Therefore it is right and just that the period of license should be one year, so that the Corporation may exercise better control over them.

Babu SURENDRA NATH MALLIK: I have very great pleasure to oppose this motion and for these reasons. First of all, I am not prepared to follow Bombay, let Bombay follow us. We have made it three years and I think Bombay will follow it. You give a license to a man whose duty is to prepare plans, etc., and, as we all know, the construction of a building oftentimes takes 18 months or two years. If we reduce the period to one year, the result will be that he will be stranded just when the building is half finished or so. You put him in a helpless position within the power of your officers. I do not see any reason for altering the period of three years to one year.

The motion was then, by leave of the Council, withdrawn.

CLAUSE 323.

Dr. PRAMATHANATH BANERJEA: There is a mistake in printing my next amendment. It should be clause 323, sub-clause (2). I suggest that this sub-clause be omitted. At this late hour I will not press this amendment if I am assured by Government that the scale of fees charged for the services of licensed building surveyors will not be placed very high.

Babu JATINDRA NATH BASU: I move that clause 323(2) be omitted. My reason is this, clause 323 provides that the Corporation will have the right to make regulations for the guidance of licensed building surveyors, and sub-clause (2) provides that the Corporation may prescribe a scale of fees for licensed building surveyors. But there are professional men of high standing like Sir Edwin Lutyens and Mr. Vincent Esch. Are you going to prescribe fees for them? People will always pay whatever fees these gentlemen demand. So the scale of fees which will be prescribed by the Corporation will remain a dead letter. I find this provision was not in the original Act. When you cannot compel professional men who have their own scale of fees to accept your fee, I do not see any necessity for this provision.

Babu AMULYA DHONE ADDY: I move that for clause 323(2), the following be substituted, namely:—

> "(2) The Corporation may, from time to time, prescribe a scale of fees to be paid to the Licensed Building Surveyor and no such Surveyor shall demand or receive, more than the fees so prescribed."

I am strongly opposed to the omission of the sub-clause, because it was on my suggestion, or rather the suggestion of the acting Chairman himself, that the Select Committee inserted these words, namely, "the Corporation may from time to time prescribe a scale of fees, etc." But I strongly object to the last line of this clause, namely, "in the absence of a written contract to the contrary," which frustrates the very object of the sub-clause. The real object is that the licensed building surveyors should not be allowed to charge prohibitive fees. The Corporation should prescribe a scale of fees, and these licensed building surveyors should not be allowed to charge more than the fees which are prescribed by the Corporation. Of course, there is no objection if they charge less than that prescribed by the Corporation. That is the law in Bombay. However, I will not make any reference to the Bombay Act as this is objected to, but I will refer to the provisions of the Calcutta Municipal Act, of which my friend is the acting Chairman.

Mr. PRESIDENT: He is not the Chairman of the Calcutta Municipal Act, but of the Corporation.

Babu AMULYA DHONE ADDY: I beg your pardon. It will appear from section 333 of the Calcutta Municipal Act and clause 294 of the Bill that the Corporation may prescribe the charges to be paid to licensed plumbers for any work done by them, and that no licensed plumber shall demand or receive more than the charge prescribed therefor under the sub-section. There is a limit to the charges which might be made by the licensed plumbers What I beg to submit is that a similar limit should be laid down in the case of licensed building surveyors; otherwise it will be a dangerous weapon in the hands of these men and they will charge prohibitive fees. As I have already said, these building surveyors sometimes charge even 5 per cent of the cost of the construction of a building, and if there is no limit, the result will be that they will charge prohibitive fees.

Rai FANINDRALAL DE Bahadur: I move that in clause 323(2), line 4, the words "to be made applicable in the absence of a written contract to the contrary" be omitted.

This portion of the sub-clause seems to me redundant. There may be possible abuses of this provision, while the scale of fees prescribed by the Corporation may also turn out to be nominal. I want therefore that the line be deleted.

Babu DEBI PROSAD KHAITAN: I am sorry to have to intervene between the Chairman of the Corporation and the discussion, but I feel I should stand, because I think that Dr. Banerjea moved his amendment without understanding the sense of this clause, although he is a barrister-at-law. From his speech it appears that he felt that the scale of fees for licensed building surveyors meant the scale of fees payable by them to the Corporation for taking out their licenses.

Dr. PRAMATHANATH BANERJEA: No, no.

Babu DEBI PROSAD KHAITAN: That is what he was saying in his speech. Now, Sir, the only reason why a scale of fees is necessary is that, in the absence of any such scale, a licensed building surveyor, in the absence of a contract to the contrary, may demand, and usually does demand, very high fees, and it is to protect the poor from having to pay very high fees that this scale of fees is to be prescribed.

As regards what my friend Babu Jatindra Nath Basu said, he, I believe, also made his speech without reading these words in the clause, namely, "to be made applicable in the absence of a written contract to the contrary." A person is perfectly within his rights to make a written contract in case of high fees, and similarly a poor person is also entitled to make a written contract with the licensed building surveyor to pay smaller fees than the scale of fees permits.

Babu SURENDRA NATH MALLIK: I think that this idea of Mr. Basu, that all these building surveyors are going to be Lutyens or Esches, is a midsummer night's dream and not meant for our purpose. There are very few people who can afford to pay 2 to 3 lakhs over building designs, and we need not worry about them. We must fix some fees for the poorer people, exactly as we have done in the case of licensed plumbers. The only exception is "in the absence of any written contract to the contrary." It is a very small matter, and I do not understand why there should be any objection to it. The proviso will meet every case.

The motions were then put and lost.

CLAUSE 324.

Dr. PRAMATHANATH BANERJEA: I move that clause 324 be omitted.

This clause gives the Corporation power to decline to accept plans, etc., made by persons other than licensed building surveyors. Now, Sir, what is the object of licensing building surveyors? It is, I understand, to make it convenient for builders of houses to have their plans prepared according to the regulations. Now, if any person is able to satisfy the regulations, there is no reason why he must always go to a licensed building surveyor and pay a fee which in many cases may be high. I do not understand the object of creating a favoured class of persons. If a person who wants to build a house does not think it necessary to go to a licensed building surveyor to have his plan prepared but is able to satisfy the rules and regulations of the Corporation, I do not see why the Corporation should insist on his plans being prepared by a licensed building surveyor.

Babu JATINDRA NATH BASU: I support the amendment moved by Dr. Banerjea. There is no reason why the Corporation should insist on having plans made by licensed building surveyors. There are persons who can prepare the plans of their own houses themselves. The Corporation should only see that the plans comply with its regulations. There should be no compulsion on owners to employ surveyors licensed by the Corporation for preparing plans.

Babu AMULYA DHONE ADDY: I support this amendment. If the builder be an engineer or a practical man of business, why should we make it compulsory for him to have the services of a licensed building surveyor at a prohibitive charge? The only question which is to be taken into consideration is whether the building regulations are complied with or not. Then, if this amendment is lost, I ask your permission to support the amendment of Raja Reshee Case Law. He suggests that after the word "new" the word "masonry" be inserted. It will appear that in clause 326, the words are "new building," and a building under this definition includes a hut. Therefore it will be a great hardship if the owner of a hut is forced to have the services of a licensed building surveyor, and especially on the ground that the Corporation has engaged a number of surveyors whose services are utilized for the erection of huts. Therefore, if amendment No. 482 is not carried, I appeal to the Hon'ble Member in charge to accept the amendment of Raja Reshee Case Law, so that the poor hut-owners may be exempted from the operation of this clause.

Raja RESHEE CASE LAW: I move that in clause 324, line 3, after the word "new" the word "masonry" be inserted.

The object of this amendment is that the erection of huts, which is generally done by poor people, should not be contingent on the plans submitted therefor being made by licensed building surveyors. The employment of these would mean considerable expense, and it would not be fair to tax poor people in this way.

Babu JATINDRA NATH BASU: I move that in clause 324, line 3, after the words "new building" the words "other than a hut" be inserted.

It is an alternative amendment. If the first amendment is not carried, then I submit that hut-owners should not be compelled to go to licensed building surveyors, but may be permitted to submit plans direct to the Corporation. Mr. Mallik will recognize that it is not from the landlords' point of view that this amendment is moved.

Babu SURENDRA NATH MALLIK: Although this is not from the point of view of landlords, it betrays a lamentable ignorance of the situation. So far as the *bustee* people are concerned, these are the persons who want most the services of licensed building surveyors. These people cannot be expected to have a knowledge of the building

regulations. We charge only Re. 1 to the owner of a hut, and we have appointed a man to prepare plans in these cases. A man who will be spending Rs. 1,000 on a hut—huts cannot be had for Rs. 5 of Rs. 10; they cost Rs. 1,000 or more, and there are huts which cost Rs. 12,000 to Rs. 20,000—will not grudge paying Re. 1. These words "poor hut-owner" and all that are very catching. My friends do not know the reason why this is necessary. There are a large number of people in Calcutta who make plans. They go to these men and humbug them by saying that they will get sanction quickly, and perhaps in some case they take some money from them in the name of the building surveyors. That is the reason why we should have licensed men. This is a class of public servants we must have in order to afford protection to these men who do not know the building rules, and for Re. 1 they will make plans for them. We have got licensed plumbers: there is no objection to them. Then why should you object in this case?

Then, as regards the argument that persons having knowledge of these things should not be required to go to the licensed building surveyors, I say, that my own cousin, who is a chief engineer in Assam, got his plans prepared by these licensed men. No doctor treats his own child. If you really want these people not to be humbugged, then you ought to have these licensed building surveyors.

Raja RESHEE CASE LAW: Will my friend kindly fix a fee for these surveyors?

Babu SURENDRA NATH MALLIK: I may tell the Raja Sahib that the Corporation may from time to time prescribe a scale of fees, and in the committee which will be appointed, if anybody has got the chance of being its President, it is my friend himself.

The motion that clause 324 be omitted was then put and lost.

Raja RESHEE CASE LAW: I withdraw my amendment.

Babu AMULYA DHONE ADDY: I object to the withdrawal.

The motion was then put and lost.

Babu Jatindra Nath Basu's motion was then put and lost.

CLAUSE 325.

SHAH SYED EMDADUL HAQ moved the following:—

"That in clause 325(*1*), sub-clauses (*a*), (*b*) and (*c*) be omitted."

Raja RESHEE CASE LAW: I move that after clause 325(3), the following be inserted, namely:—

"(4) The Local Government, after considering the said objections (if any), may confirm the declaration, and before doing so, may modify it, but not so as to extend its effect."

I think that the Local Government should have a controlling voice in this matter and the clause, as it stood before it went to the Select Committee, should be reinserted.

Mr. S. W. COODE: I would accept the Raja Sahib's amendment: I do not know what the views of Mr. Mallik would be. We agreed in the Select Committee to surrender these powers because some of the members thought that the Corporation were competent to manage their business. But if Mr. Mallik has no objection, we have none.

Babu SURENDRA NATH MALLIK: I am bound to say that I have the strongest objection to this. We, the Corporation, are quite competent to manage our own affairs. Why should we allow the Government to interfere? We are doing our business quite satisfactorily; what will the Government do? It is a matter of detail. If all the commissioners who know everything come to a decision in this matter, is the Government Secretariat in a better position to judge it? I should strongly object to this. This shows want of confidence in a representative body like the Calcutta Corporation.

The Hon'ble Sir SURENDRA NATH BANERJEA: On behalf of Government I beg to say that we have no desire to enter into these details. We have work enough and we do not like to go into matters of detail. We do not want to have this power if the acting Chairman of the Corporation objects to it.

Shah Syed Emdadul Haq's motion was then, by leave of the Council, withdrawn.

Raja Reshee Case Law's motion was then put and lost.

Adjournment.

The Council was then adjourned till 3 P.M. on Monday, the 5th March, 1923, at the Town Hall, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE Council met in the Council Chamber in the Town Hall, Calcutta, on Monday, the 5th March, 1923, at 3 P.M.

Present:

The Hon'ble the President in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers, and 96 nominated and elected members.

Oath of allegiance.

The following members took an oath of their allegiance to the Crown:—

Mr. G. G. DEY.

Mr. F. W. ROBERTSON.

Mr. PRESIDENT (the Hon'ble Mr. H. E. A. Cotton): The Council may be glad to know that I have received the following letter from the brother of the late Nawab Sir Syed Shams-ul-Huda (the letter being addressed to Mr. Tindall):

221, LOWER CIRCULAR ROAD,
CALCUTTA,
The 1st March, 1923.

DEAR MR. TINDALL,

I beg to acknowledge receipt of your demi official No. 145L., dated the 11th January last, conveying a message of sympathy from the Council at the demise of my brother the late Nawab Sir Syed Shams ul Huda, K.C.I.E.

May I, on behalf of myself and other members of our family, be permitted to express through you our respectful thanks to the Hon'ble the President and the members of the Council and assure them of our sincere and grateful appreciation of the sentiments expressed in their speeches? I need hardly add that the kind references in Council touched our hearts very deeply and gave us at least one great consolation that the services rendered by my late lamented brother have been so well appreciated in every quarter.

With renewed thanks,

I remain,
Yours truly,
SYED MD. MALEEK.

C. TINDALL, ESQ., C.I.E., I.C.S.,
Secretary to the Bengal Legislative Council.

I think that it will be in agreement with the wishes of this House, if I direct that it be entered in the proceedings of this Council.

There is just one more announcement that I wish to make. Some inquiries have been addressed to me with regard to the procedure that I propose to adopt when I direct that the division shall be taken by a show of hands. What I propose to do is this: When I find that the number of members supporting an amendment is ten or less than ten, the names of those members shall be recorded in the minutes, but when I find that more than ten members support the amendment I shall then order the ordinary division to be taken through the lobbies.

Starred Question

(to which oral answer was given).

Importation of bayonets into Calcutta.

***LXIX—A. Mr. F. E. E. VILLIERS:** Will the Hon'ble the Member in charge of the Police Department be pleased to say—

(*i*) whether it is known how many bayonets were recently imported into Calcutta;

(*ii*) what steps have been taken to trace and confiscate them;

(*iii*) how many have been recovered; and

(*iv*) whether the Government have reasons to suppose that some of these bayonets have got through to other parts of Bengal or to other Provinces?

MEMBER in charge of POLICE DEPARTMENT (the Hon'ble Mr. H. L. Stephenson): (*i*) 18,056

(*ii*) The Police are taking necessary measures

(*iii*) About 8,500.

(*iv*) Yes.

Statement by the Hon'ble the Finance Member.

MEMBER in charge of DEPARTMENT of FINANCE (the Hon'ble Mr. J. Donald): It has been represented to me that a good deal of time might be saved and a lot of discussion avoided in connection with the voting for grants next week, if I repeated to Council, and explained in somewhat greater detail, what I said last Thursday in regard to the

attitude of Government to, and the action that is being taken regarding, the recommendations of the Retrenchment Committee. As I told the Council, the Finance Department has taken up the position of calling on the various departments to give effect to the recommendations or to show cause why, with reasons, they do not accept any particular recommendation. We have done a fair amount in this direction already. In the course of this we have in a few cases issued orders enforcing the proposals of the Committee. In these cases the Finance Department will at once cut the expenditure. In other cases the principle of the recommendations has been accepted, but it will take time to give practical effect to them, and it is not possible now to determine what actual cuts can be made. I may instance as reasons for the delay in giving effect to such schemes the necessity for rearrangement of the work, the question of immediate or gradual discharge of establishment, the revision of rules and investigations into the working of offices.

There are many cases too in which it will take the departments time to formulate their conclusions before acquainting us with their decisions. But we hope within the next month or two to have arrived at a definite decision in respect of most of the recommendations, and by the July session we should be able to let the Council know what recommendations have been accepted and given effect to. The Council have already been told that the figures on which the Retrenchment Committee worked were the original budget figures of the current year. They do not correspond with the figures of the budget for 1923-24. But the Committee's figures are in fact incorrect in many instances. It is difficult too even for us to know exactly where in the budget some of the proposed retrenchments could be made. We shall have to investigate this, but it will be easy to make the reduction when an accepted suggestion is worked out. Further in the budget for 1923-24 we have already made reductions which give effect to some of the Committee's recommendations. It follows that if any proposals for reduction are made following the Retrenchment Committee's recommendations, there is bound to be great confusion. But there is a still more important point to be considered. We have made many retrenchments as the Council are aware, Rs. 89,00,000 last year and Rs. 47,00,000 this year. The budgets of the various departments are, therefore, down to a minimum on the existing scale. This means that they provide only for the machinery, and that consists very largely of establishment. The effect of a general or percentage cut would thus inevitably lead to the reduction of the provision for establishment, and we should, as a consequence, have to discharge summarily many Government servants. To take, e.g., the head "Administration of Justice." The Retrenchment Committee has suggested a reduction in the number of Judicial officers. This is a matter to which Government must give earnest consideration, as this House must realize, and it cannot be done hurriedly. If, in spite of this, this Council passes a

motion to reduce the provision under this head by a general or percentage cut, Government must assume that this Council desires the immediate enforcement of the Retrenchment Committee's recommendation. This means that there will be insufficient provision to meet the pay of the present number of Judicial officers and, therefore, the Finance Department would be compelled to insist that the Hon'ble Member in charge of the Judicial Department shall get rid of a certain number of his Judicial officers the very day the motion for reduction is passed. This is because all salaries for March come out of next year's budget. Officers in the Education or any other department would suffer the same fate by a motion for reduction under other heads. Judging from speeches made during the general discussion, action in this direction would not commend itself to this House. I have mentioned these points in order to warn members of the danger that may result from the adoption of any general or percentage cuts, and if I might advise the Council, I would suggest that the Finance Department be left for the present to fight the battle for retrenchment with the other departments and that motions for reduction based on the suggestions of the Retrenchment Committee be not put forward. Members will have an opportunity by the July session of learning what Government has done in this matter, and, if they feel that Government has not gone far enough in some matters or that Government should have accepted more suggestions than they will then show, it will be open to them to move resolutions on the subject.

Government Bill.

The Calcutta Municipal Bill, 1921.

CLAUSE 326.

The following amendment standing in the name of Dr. Pramathanath Banerjea was, in the absence of the member, deemed to be withdrawn:—

"That clause 326 be omitted."

The following amendment standing in the name of Raja Reshee Case Law was, in the absence of the member, deemed to be withdrawn:—

"That in clause 326 (1) (b), lines 2, 3 and 4 the words 'appertaining exclusively to such site, and not less than 12 feet wide at any part' be omitted."

SECRETARY to GOVERNMENT, DEPARTMENT of LOCAL SELF-GOVERNMENT (Mr. S. W. Goode): In the absence of Mr. D. C. Ghose, may I have your permission to move his amendment which Government are prepared to accept?

Mr. PRESIDENT: Yes.

Mr. S. W. GOODE: I move that in clause 326(*1*) (*b*), line 3, the word "exclusively" be omitted.

The motion was put and agreed to.

Babu AMULYA DHONE ADDY: I move that in clause 326 (*1*) (*b*), line 4, for the words "twelve feet wide" the words "eight feet wide" be substituted.

Under the Bill it will appear that there must be access to a building and the width of that access must be 12 feet. I must think the Government for having accepted the suggestion of Mr. D. C. Ghose to omit the word "exclusively." However, as regards the width of this access, I beg to submit there is no such provision in the existing Act and all the important public bodies of Calcutta have suggested that the width of this access should be 8 feet. That is also the recommendation of the Corporation of Calcutta and the Chief Building Surveyor, who represented the Building Department in the Committee of the Corporation, stated that a width of 9 feet would suffice. As regards the width of access to surplus lands, which is prescribed by the Corporation, it is 8 feet only. If width of 8 feet will suffice in the case of access to surplus lands belonging to the Corporation, I fail to understand why the width should be 12 feet in the case of lands belonging to private persons. I admit that in the original Bill the width was 16 feet and the Select Committee have been good enough to reduce it to 12 feet. What I beg to submit is that for one cart or carriage a width of 8 feet will suffice. With these remarks I commend my amendment to the Council.

Babu SURENDRA NATH MALLIK: I am sorry I have got to oppose this. My hon'ble friend has himself admitted that in the original Bill it was 16 feet but the Corporation Committee thought that 9 feet would do. The Select Committee accepted 12 feet in view of the fact that 8 or 9 feet is hardly sufficient in these days of motor traffic and all that. There must be some room by the side of this traffic. The Government have already accepted the compromise by deleting the word "exclusively." An amendment was put in to that effect by Mr. D. C. Ghose and the Hon'ble the Minister has been pleased to accept it. After the word "exclusively" has been deleted I do not think any further interference is necessary and 12 feet will be just what we want. Therefore, I do not think that this amendment should be accepted.

The motion was put and lost.

The following amendment standing in the name of Mr. D. C. Ghose was, in the absence of the member, deemed to be withdrawn:—

"That clause 326(*2*) be omitted."

CLAUSE 328.

MINISTER in charge of DEPARTMENT of LOCAL SELF-GOVERNMENT (the Hon'ble Sir Surendra Nath Banerjea): I move that in clause 328(2), line 2, for the word "part" the words "a substantial part" be substituted.

It is more or less a formal matter and I hope the House will agree to

The motion was put and agreed to.

CLAUSE 329A.

Babu AMULYA DHONE ADDY: I move that in clause 329A proviso (i) be omitted.

Under section 391 of the existing Act it is left to the discretion of the General Committee to make any relaxation whatever in the case of additions to or alterations of an existing building. In the case of a new building a person must comply with all the building regulations, but in case of additions to or alterations of existing buildings it is left to the discretion of the General Committee to make any relaxation and the reason is obvious, because under the Act of 1888 the building regulations were nominal. Under that Act a person intending to erect a building had to keep a back space of only 4 feet and at the side an open space of 4 feet only, but under the Act of 1899, that is, the existing Act, very stringent regulations have been prescribed. In the case of a dwelling house he has to keep an open space of one-third of the total area and at the back he has to keep a very big open space the minimum of which is 10 feet. Therefore, in the case of additions to or alterations of existing buildings and the buildings erected before the existing Act came into force with the sanction of the municipal authorities under the Act of 1888, it would be a source of hardship. That is the reason why the Legislature have authorized the General Committee of the Corporation to make relaxations of the building regulations in the case of those houses. But you will find that under clause 329 the Corporation will be divested of these powers. It says that in the case of such additions no relaxation is to be made. However, on my representation, the Select Committee were good enough to make some relaxation as would appear from rule 96 of Schedule XVI. Under this rule the Corporation may make relaxation, but even this power of relaxation has been restricted. Rules 30 and 32 may be relaxed so as to prevent the demolition of any material part of any masonry building in existence, but sufficient space is required to be kept open under that rule. Rule 29 may be relaxed provided the buildings conform to the provisions of rules 23 and 30. So it will appear that even the power of relaxation of the Corporation has been taken away except in these matters. I protested at the meeting of the

Select Committee and as it is the unanimous recommendation of the Corporation of Calcutta I think I may be justified in pressing this before this House.

As regards the second proviso I have not the slightest objection. On the contrary I must admit that it is a sound one. It runs as follows:—

> Such relaxations are not likely to prejudicially affect the sanitation of the building or other buildings in its vicinity

Therefore, if the addition or alteration does not prejudicially an[illegible] sanitation or ventilation of the buildings, then the Corporation may be authorized to make relaxations. Not only that. It says if it does not effect the sanitation not only of the building in question but also of other buildings in its vicinity, then relaxation may be made, then where is the harm in giving this power of relaxation to the Corporation of Calcutta—a Corporation which will consist of the representatives of the people [illegible] Corporation which will consist of 12 representatives of the Bengal Chamber of Commerce and such other public bodies? Now, the question is whether this power of relaxation has been abused by the General Committee or not. I may say that it has not been abused. As a member of the Buildings Sub-Committee of the Corporation for the last 15 or 16 years, I may be allowed to say that in a very small number of cases such relaxation has been made. It is on the strong recommendation of the City Architect or of the Chairman of the Corporation that such relaxations are allowed and even in certain cases their recommendations have not been accepted by the Sub-Committee. That being the case, why should the Corporation be deprived of the right which they have been exercising since 1899? It is very difficult to comply with all these building regulations especially in the case of a building which has been in existence before 1888 and even in the case of a building which has been erected with the previous permission of the municipal authorities under the Act of 1888.

As regards the added area, I mean Maniktala, Cossipore-Chitpur, and Garden Reach, it will be a source of great hardship. Practically there are no building regulations, they have constructed buildings at heavy cost and now, if they are called upon to comply with all the stringent building regulations in the case of additions to or alterations of the existing buildings, will it not be a source of great hardship to them? In the case of the city proper it might be said that the buildings were constructed in accordance with the building regulations under which the people were forced to keep certain open spaces. So it will not be so great a hardship to them if they are now asked to comply with the proposed regulations, but in the case of the newly added area it will be so. There are other classes of buildings. In the detached area it will

appear that under rule 24 of Schedule XVI a person going to erect a building in a town area shall have to keep an open space of two-thirds of the total area. Now, if certain localities in these newly added areas are declared as detached areas, certainly they will be a source of great hardship. If they are called upon to comply with rule 24 of Schedule XVI to leave an open space of two-thirds of the entire area, it would be a source of greatest hardship to them. Leave it to the discretion of the Corporation. If you have any confidence in them, you must give this discretionary power to them. If you have no confidence, abolish the Local Self-Government.

Babu SURENDRA NATH MALLIK: My friend has said many things about the Corporation, the confidence of Government, and the abolition of Local Self-Government, if necessary. I find that this is the only matter in which my friend takes that view. Even in regard to the Corporation finances my friend had not the slightest regard for them. He wanted to make as much retrenchment as possible. What is the idea underlying his amendment. Here the idea is that we must, if possible, prevent congestion in the town in future and in doing so we shall take into consideration the convenience of the owners of old houses as well as the comfort of those who live in the vicinity or may be building houses near by. The idea is that so far as the back space and side space are concerned, we do not insist upon them in the case of old houses. If a man has not kept either back space or side space for a long time, we shall still allow him to add another story. This is the relaxation which we are prepared to make, but if you allow every rule to be relaxed, whatever that rule may be, you will simply perpetuate the very state of things which is to be found in any quarter of the northern part of the town and in other parts also in a lesser degree. It is the desire of this Bill, as also the present Act, to improve the old state of things. My friend wants a wide latitude to build in any way he likes provided it is an old building. I respectfully submit that this cannot be. The law provides for relaxations in regard to certain things, but not for anything and everything. The Select Committee accepted this position because they found this to be the best. They also provided a second proviso which runs as follows:—

> Such relaxations are not likely prejudicially to affect the sanitation or ventilation of the building or other buildings in its vicinity.

This is the safeguard for the dwellers as well as the neighbours of that house. If these are all accepted, where is the difficulty of which my friend complains? Whether the Corporation can be trusted, whether they are a responsible body, and whether they can be entrusted with powers and things of that kind—questions like these need not arise. We allow all these old buildings to stand. We allow additions to be made to them, and we make relaxations for the purpose of enabling the

owners of old houses to add new stories and new rooms, but we are not prepared to relax all rules in their favour. That is the idea. Where is the objection, I do not know. My friend for nothing makes comments on this Bill which do not legitimately arise at all. Everybody is anxious that the town should be improved—sanitation, ventilation, and all things should be improved. We are also anxious that the old buildings should be saved as far as possible from all these hardships—if they might be so called. What is the reason, therefore, for my friend's amendment? So far as I can see, there seems to be no reason whatever for his amendment unless he wants to say something.

On the motion being put, a division was claimed.

Mr. President directed that the division be taken by a show of hands.

The following members were in favour of the motion:—

Babu Amulya Dhone Addy.

Babu Jatindra Nath Basu.

Rai Fanindralal De Bahadur.

Rai Lalit Mohan Singh Roy Bahadur

Babu Nalini Nath Roy.

Babu Jogendra Nath Roy.

Thirty members present being against the motion, the motion was lost

CLAUSE 329B.

The following motion standing in the name of Raja Reshee Case Law was, in the absence of the member, deemed to be withdrawn:—

"That clause 329B be omitted."

Babu JATINDRA NATH BASU: I move that for clause 329B, the following be substituted, namely:—

"329B. The Corporation shall sanction the erection of a l ary wall exceeding ten feet in height provided they are satisfied as to the stability thereof and such erection is intended to prevent the acquisition of an easement by the owner of adjacent premises."

This is a verbal amendment. I find that in clause 329B Government recognizes that it has to make some provision in the matter of erection of buildings to protect the right of neighbouring owners as regards the acquisition of the right of easement on their lands. We know that you cannot stop openings made by a neighbouring owner on his own property, and if the openings continue for a certain length of time, the neighbouring owner acquires the right of free access of light or air or

of passage over the adjoining land. The right of easement has been recognized both in the East and West as an important right and Government recognizes that right in this clause. The Bill provides that buildings shall be erected with the sanction of the Corporation. Now, in the definition of the word "building," boundary walls of less than 10 feet in height have been excluded, but boundary walls which are more than 10 feet in height are included. Therefore, it becomes necessary to apply for sanction for erecting boundary walls which are more than 10 feet in height. This clause simply says that the Corporation shall not refuse sanction to the erection of a boundary wall exceeding 10 feet in height, but it does not give the Corporation power to grant sanction; it merely states a negative fact. What the law should do is to give positive right to the Corporation to grant sanction, where the Corporation thinks the sanction to be necessary. That is the reason why I have provided that the Corporation shall sanction the erection of a boundary wall above 10 feet in height provided they are satisfied as to its stability, and such erection is intended to prevent the acquisition of an easement by the owner of adjacent premises. My amendment, therefore, simply puts the authority in a positive form; the Select Committee have put it in a negative form in the Bill. I again repeat that the right of easement in a country where it frequently affects Hindus and Muhammadans is a very important right. Further, building plots are sometimes so small in area that if a neighbouring owner acquires the right of easement, then buildings cannot be put up in small plots of three or four cottahs because the neighbouring owner would always require, by virtue of his right of easement, a large area of the adjoining land to be left open. Therefore, I think the Corporation should be given the power to prevent the acquisition of easement by a neighbouring owner.

Rai FANINDRALAL DE Bahadur: With your permission, Sir, may I move both the amendments standing in my name?

Mr. PRESIDENT: Yes, please, Rai Bahadur.

Rai FANINDRALAL DE Bahadur: I move—

"That in clause 329B, the words 'not refuse' in line 1, and the word 'to' in line 2 and the word 'to' in line 3 where it first occurs be omitted."

"That in clause 329B, for the last four lines, the following be substituted, namely,—

'being satisfied as to the stability of such wall or addition and that the same is required to prevent the acquisition of any right of easement.'"

My object in moving these amendments is to simplify the language used in the section. The motive of the clause is, I believe, to sanction, when asked for, the erection of a boundary wall exceeding a certain

height for particular reasons and there is no necessity of such round-about expressions as put here. What I propose is simply a re-drafting and there can possibly be no objection to it.

Mr. D. J. COHEN: I support these amendments for no other reason than this that we should include the space occupied by these walls as a portion of the space built upon. Hitherto we have been allowed to build boundary walls up to any height, and the space occupied by these walls was not treated as covered space. If the clause, as it stands, is accepted, then in that case the wall as recognized by that clause has to be built in order to stop an easement and it will be calculated as covered space. Therefore to that extent the owner will be prejudiced.

Mr. S. W. COODE: As regards Mr. Cohen's argument, I would suggest that he should have raised the objection which he now makes in connection with the definition of "buildings." It was there definitely stated that a building should include any wall not exceeding 10 feet in height, and if Mr. Cohen now argues that a wall should not be treated as a building and, therefore, incident to the restrictions of the building by-laws, I must point out that he should have brought forward this argument at an earlier stage of the proceedings.

I would oppose all these amendments. The genesis of the clause is as follows. It has frequently been the case that the Corporation have had to decide intricate questions of easement in connection with applications to erect what would be called boundary walls. We held in the Select Committee that the determination of questions of easement—admittedly an abstruse law—was not the business of the Corporation. All that we desired therefore to do in this clause was to provide that sanction to a building should not be refused on the ground that it would in any way affect an easement. Now, Mr. Basu wishes to put in something which is more than a verbal amendment the effect of which will be that the Corporation will have to decide in each case, whether the wall which it is proposed to build is really designed to prevent the right of easement accruing, and that is the very decision which the Corporation should not be asked to make. The clause in fact says that up to a height of 10 feet a wall should not be considered a building, while after 10 feet it should be governed by the ordinary buildings regulations. What I submit to this House is that it is very desirable that you should not place on the building department the onus of deciding the [illegible] question whether an easement has accrued and should be protected or not. I therefore think that this clause, as it sands, is preferable to any of the amendments which have been proposed.

Babu SURENDRA NATH MALLIK: On behalf of the Corporation, I beg to point out to my learned friend, Mr. Basu, that his amendment is not at all, as he says, a mere verbal alteration. He has said in

speech that he desires positive right to be given to the Corporation; this is, however, the last thing that ought to be done. The Corporation have not got the machinery to determine the most intricate of all the questions of civil rights, viz., the question of easements. It is highly undesirable, therefore, to ask the officers of the Corporation to decide the question of rights. Whenever a question of civil rights arises, we tell the parties that we cannot interfere and that they had better settle the matter with their neighbours. My friend, the mover, says that it is the Corporation who have got to decide whether a particular right of easement exists or has been interfered with. I submit, again that this is the last thing that the Corporation should be asked to do. First of all, they have not got the machinery; secondly, the officers who will be asked to decide these questions are not qualified to do so—not even the Chief Executive Officer. It is sometimes difficult for the learned Judges to decide the question of easements. In the Select Committee, we kept the clause in this negative form, i.e., the Corporation shall not refuse the raising of a wall. We did not want to go further. If the neighbour does not object to the building of a wall, you can go on with it and so long as it is suitable, the Corporation will not take any notice of anything relating to the respective rights of the parties. Therefore, my friend will appreciate that the way in which he has put this motion, i.e., giving a positive right to the Corporation, would be the most highly objectionable thing to be done in the interests of the Corporation and, I may add particularly, in the interests of its officers. Their decision may often be faulty and they will be blamed for nothing. I therefore oppose Mr. Basu's amendment.

As regards Mr. De's motion No. 555, I think that it is incomplete.

Rai FANINDRALAL DE Bahadur: I have moved Nos. 499 and 500 together and they should be read together.

Babu SURENDRA NATH MALLIK: The amendment is practically the same as Mr. Basu's amendment and I would also oppose it.

So far as Mr. Cohen's argument is concerned, it has been very ably answered by Mr. Goode and I do not like to add anything to what he has said.

Mr. PRESIDENT: Rai Bahadur, which are the words which you desire should be left out of clause 329B? The expression "the last four lines" is very vague.

Rai FANINDRALAL DE Bahadur: The words "the ground that . . . . ." to the end of the clause.

The motions were then put and lost.

CLAUSE 330A.

Babu JATINDRA NATH BASU: I move that for clause 330A(*1*), the following be substituted, namely,—

> "No building shall be erected or used for a temporary purpose without the approval of the Corporation and otherwise than in accordance with any by-laws made under this Act or otherwise than in accordance with any conditions that may be prescribed by the Corporation."

This is an amendment to clause 330A(*1*). This clause deals with the erection of temporary structures like those which are put up for exhibitions, social entertainments, religious festivals, and so on. The clause provides that such structures shall be erected in accordance with the by-laws made in this behalf under the Act. It may be that certain by-laws are framed which lay down certain conditions, and when the structure comes to be erected, it may be found that these by-laws may have to be modified and certain other conditions laid down to meet the exigencies of the particular case. So the Corporation may lay down conditions which are not in the by-laws for such temporary structures. In the case of religious and social festivals that take place in the residences of Hindus and Muhammadans, they do not last longer than three or four days or at the utmost a week. These structures are sometimes made of *hogla* or canvas and when such a structure is to be erected, the owner should be required to intimate to the Corporation the fact that he is putting up such a structure and the Corporation may lay down certain conditions in compliance with which the structure should be permitted. I think, therefore, that having regard to the urgency with which these structures may sometimes be required to be erected, Government will accept my suggestion.

Mr. PRESIDENT: I think that motion No. 24, which was moved by Raja Reshee Case Law and which was agreed to, meets the point you have raised.

Babu JATINDRA NATH BASU: In that case, Sir, I beg leave to withdraw my amendment.

The motion was then, by leave of the Council, withdrawn.

The Hon'ble Sir SURENDRA NATH BANERJEA: I move that in clause 330A(*1*), line 3, for the word "and" the word "or" be substituted.

The motion was put and agreed to.

The following motions standing in the name of Rai Fanindralal De Bahadur were, by leave of the Council, withdrawn :—

"That in clause 330A(*1*), lines 3 and 4, for the words 'otherwise than in accordance with any by-laws made in this behalf under this Act' the following be substituted, namely,—

'unless it complies with such conditions as may be prescribed by the Corporation.'"

"That in clause 330A (*2*), line 2, the word 'strictly' be omitted."

The Hon'ble Sir SURENDRA NATH BANERJEA: I move that in lines 2 and 3 of clause 330A (*2*), for the words "in accordance therewith and with" the following be substituted, viz.—

"for such purpose and in accordance with."

The motion was put and agreed to.

The following amendments were, by leave of the Council, withdrawn :-

Rai FANINDRALAL DE Bahadur: "That in clause 330A (*2*), line 3, for the words 'therewith and with any by-laws made under this Act,' the words 'with such conditions' be substituted."

Babu JATINDRA NATH BASU: "That in clause 330A (*2*), line 3, for the words 'any by-laws' the words 'any such by-laws or conditions' be substituted."

CLAUSE 333.

The following amendment was, by leave of the Council, withdrawn :—

Babu AMULYA DHONE ADDY: "That in clause (*1*) (*a*), lines 3 and 4, for the words 'without a free passage, in front of and behind each line' the words 'with a free passage in front of and an open space behind each line' be substituted."

CLAUSE 339.

The following motion was, by leave of the Council, withdrawn :—

Babu AMULYA DHONE ADDY: "That clause 339 (*5*) be omitted."

CLAUSE 340.

The following motion standing in the name of Shah Syed Emdadul Haq was, in the absence of the member, deemed to be withdrawn :—

"That in clause 340 (*1*), line 5, after the word '*bustee*' the words 'and of the hut' be inserted."

CLAUSE 341.

Babu AMULYA DHONE ADDY: In the absence of Shah Syed Emdadul Haq, I move, with your permission, that in clause 341 (*a*), line 1, the words " or occupiers " be omitted.

Mr. S. W. COODE: I may say at once that we accept this amendment It will, however, involve a consequential amendment, and that is that sub-clause (*c*) should be omitted altogether

Babu AMULYA DHONE ADDY: I accept the consequential amendment.

The following amendment was put and agreed to :

" That in clause 341 (*a*), line 1, the words ' or occupiers ' be omitted and also that sub-clause (*c*) be omitted."

CLAUSE 347.

Babu AMULYA DHONE ADDY: I move that clause 347 (2) be omitted.

Under clause 347, the area of open space including passages and common grounds in a *bustee* is to be not more than one-third of the total area; but under sub-clause (2) in calculating the said proportion no tank situated therein which has not been filled up shall be taken into account; that is to say, if there be a tank in that *bustee*, which is not filled up owing to the good condition of the water, then in ascertaining the proportion of one-third of the total area, the area of this tank is not to be taken into consideration. It is said that in some cases in big plots of land the major portion of them might be covered by tanks; and therefore, the remaining portion of those lands might be *bustees* which are likely to be very congested. It may be argued, therefore, that clause (2) should be retained I beg to submit that stringent regulations have been laid down for the improvement of *bustees*, for instance, there are to be streets, passages, open spaces, between huts, side spaces and court-yards. It is not, therefore, necessary to have sub-clause (2) and if open spaces are enforced to be kept, they would constitute about one-third of the total area. Now, it may be that after a year or two the tanks may be filled up. On these grounds, I beg to move that sub-clause (2) be omitted.

Rai Dr. HARIDHAN DUTT Bahadur: I should like to point out to my friend, Mr. Addy, that there are *bustees* and *bustees in* Calcutta and there may be a *bustee*, the major portion of which might practically be covered by a tank and the huts just surrounding the tank. What would my friend do in such a case? Certainly the *bustee* people will require some amount of open space on which they can walk about and they cannot in any case walk upon the tank. In such cases it is very

desirable that we should provide for an adequate amount of open space, apart from the tanks which are very useful no doubt as open spaces. The tanks have a particular purpose and they cannot be calculated as open space. For the benefit of the *bustee* people, therefore, I think my friend, Mr. Addy, will not press his amendment.

Mr. S. W. GOODE: We accept Dr. Dutt's arguments, and I have nothing further to add to what Dr. Dutt has said. I oppose the amendment.

The motion was then put and lost.

CLAUSE 349.

The following amendment was, by leave of the Council, withdrawn:—

Babu AMULYA DHONE ADDY and SHAH SYED EMDADUL HAQ: "That in clause 349 (2), lines 3 and 4, after the words, 'the Corporation may require' the words 'for the improvement of the *bustee*' be inserted."

CLAUSE 354.

Babu AMULYA DHONE ADDY: I beg to move that in clause 354 (3), line 1, for the words "six months" the words "one year" be substituted.

It would appear that under the *bustee* regulations the *bustee*-owner is called upon to open out roads, and remove huts or portions thereof for the improvement of the *bustee*, but the period within which he is to do this work in only six months. I may say that this is the present law, and that is the reason why it is impossible for a *bustee*-owner to comply with the municipal requisition, and the result is that he is dragged before the municipal magistrate and heavily fined. Now, Sir, in the suburban area tenants are not generally tenants at will, they erect buildings on leaseholds which are, instead of monthly tenancies, yearly tenancies, but in case the *bustee*-owner does not manage to remove the huts, he is under the painful necessity of instituting suits against the tenants for ejectment, but before instituting such suits he serves a notice to quit, but in the case of a yearly tenancy, the period of notice must be six months, so it is impossible for a person to comply with the said municipal regulations within six months. Apart from that he has to incur heavy expenses for the construction of streets and other works. It may be said that in the Select Committee some concession has been made, namely—"within six months after the date of such notice or within such further time as the Corporation may from time to time allow." I admit this is a concession, but why should a person be at the sweet will of the Corporation of Calcutta, when it is well-known, as a matter of fact, that he cannot be expected to comply with the requisition within a period of six months.

Babu SURENDRA NATH MALLIK: I rise to a point of order. Is not the Corporation a responsible body?

Mr. PRESIDENT: You had better not interrupt him now, Mr. Mallik; you will get your opportunity later.

Babu AMULYA DHONE ADDY: That is the reason why even the Corporation itself has recommended that the period should be one year. I beg to draw attention to the statement of opinions in page 20- " the period of six months should be increased to one year."

That is the reason why I beg to submit that the period should be at least one year.

Rai Dr. HARIDHAN DUTT Bahadur: I am sorry to rise again to oppose my friend He has rather unwillingly pointed out the improvement that has been effected by the Select Committee by the addition of the words " or within such further time as the Corporation may from time to time allow." It is true that in some cases, especially in big *bustees*, the owner cannot be expected to remove all the huts within six months The principal difficulty is that the hut occupiers will not go unless cases are brought against them in the proper court and ejectment orders are obtained against them for their removal That is often a serious difficulty and realizing this the Select Committee gave power to the Corporation to extend the time whenever they found it necessary. That ought to satisfy Mr. Addy. Instead of six months the Corporation may allow him, one or two or three years' time Where is the difficulty, where is the hardship in this? Then I would point out to my friend and his experience must be the same experience as ours that whenever a man gets six months' time to carry out a certain injunction, the invariable practice is that he waits for six months and then at the last moment tries to find out how the requisition can be met He then comes to the Corporation and finding that he has no time left, he goes to his commissioner and seeks his help in getting the time extended, and I must admit that the Chairman or the Deputy-Chairman to whom this work is entrusted, very often extends the time or orders postponement of prosecution Therefore, there is no justification for my friend asking for this extension.

Babu SURENDRA NATH MALLIK: This is another unfortunate instance which justifies me in saying that my friend's amendments have not been put with proper care Because it is six months, he asks for one year. This is not a measure under which the Corporation directs an owner of a *bustee* to remove huts within six months. Just the opposite. The Corporation directs the owner to improve his *bustees* according to a specified plan. The owner says he is not going to do this, but is going to " de-busteeize " the whole place and build either a pucca house or leave it as vacant land." In that case the Corporation directs that " such owner

shall within six months after the date of such notice or within such further time as the Corporation may from time to time allow, remove all huts standing on such lands . . ." There is no reason why he could not do this the next day after getting notice.

There is another point of view. My friend remembers that in the Select Committee we discussed this, he accepted the proposition and then we wanted to make it very wide— "such further time as the Corporation may *from time to time* allow . . ." Dr. Haridhan Dutt has explained how it sometimes extends to two or three years, which is much more than what the Corporation wanted, viz., a rigid limit of one year; and still my friend having got that, brings in an amendment saying six months should be one year. I cannot understand him putting in an amendment like this. He knows the whole situation that *bustee* owners will not move till nearly the expiration of six months, and a further extension is given to them, and yet he brings in this amendment.

The motion was then put and lost.

Babu JATINDRA NATH BASU: I move that at the end of the proviso to clause 354 (*d*), the following be added, namely :—

"If the Corporation pay compensation to the owner for the land comprised in such street or passage."

Clause 354 gives the owner of the land in a *bustee* power to take it out of the category of *bustee* land. There are certain liabilities attaching to *bustee* land; the Corporation can prepare a standard plan or direct the owner of the *bustee* to make certain improvements. The *bustee* is sometimes composed of pieces of land belonging to several owners and the *bustee* roads laid down by the Corporation sometimes pass over lands belonging to different owners. This clause gives the owner of a piece of land in a *bustee* power to declare that he is taking his land out of the category of *bustee* land, and that he intends to erect pucca structures on that land. The clause also provides that where huts have been removed from the land the land shall be altogether excluded from the limits of the *bustee* and should not be shown in a standard plan approved for the *bustee* as being a part of such *bustee*. This is all right. But a proviso has been added to sub-clause (*d*) of section 354 which says that when a land has been taken out of the category of *bustee* land, there are certain provisions which still continue to be in force. Under these provisions even after a man has taken his land out of the category of *bustee* land, if a *bustee* road has been aligned through that piece of land, then in spite of having taken the land out of the category of *bustee* land, the portion of the excluded land that is within the alignment of the *bustee* roads cannot be availed of by the owner; not only that, but under sections 338, 341, 345, 349, 351 and 352 the residents of the other portions of the *bustee*, and municipal servants and scavengers will have the right to pass over this land and thereby obtain a right of way over it, so that

the owner practically loses his right of ownership; he probably also will have to curb and channel the road, lay down sewers, pave it and probably light the road, so that, though technically an owner, he is deprived of the right of ownership. He has to incur expenditure, not for his own use, but for that of the Corporation and the residents of other parts of the *bustee* which do not belong to him. This proviso is an attempt to take land by a flank movement without paying for it. You take land out of the category of *bustee* land in order to be rid of the liability attaching to *bustee* lands, then you have to leave a portion for erection of platforms, latrines, and so forth; you remove huts and agree to erect pucca structures; in spite of this, by the insertion of this provisions the liability is upon you to leave a large portion of your land free for the use of all and sundry. That in ordinary language would be called stealing; but as it is going to be sanctioned by law, I do not know what it will be called. This is a clear attempt on the part of the Corporation to take land without paying for it.

Mr. PRESIDENT: I do not understand where you wish your clause to go in. It cannot go in at the end of the clause because it would be bad grammar and unintelligible. Will you let me know where you wish it to go in?

Mr. S. W. COODE: As I understand him, the member proposes that after the word "passage" in line 5 of the proviso, the addition of the words "if the Corporation pay compensation to the owners for the land comprised in such street or passage," and the omission of the words "unless the Corporation otherwise direct" in the last line.

Babu JATINDRA NATH BASU: Yes, that is my intention

Mr. PRESIDENT: Do you accept that, Mr. Goode?

Mr. S. W. COODE: No, I do not.

Babu JATINDRA NATH BASU: I am willing to have the words inserted after the word "passage" in line 5, in substitution of the last words.

Mr. PRESIDENT: You should have stated that in your amendment

Babu JATINDRA NATH BASU: That is what I intended.

Mr. D. J. COHEN: There is another amendment; it has been proposed that in sub-clause (7) the owner shall be entitled to compensation if his land is taken in excess of one-seventh of the entire area.

Mr. PRESIDENT: You had better add that as your contribution to the debate, Mr. Cohen.

Babu AMULYA DHONE ADDY: I move that in clause 354 (7), lines 10 to 12, the words "which is in excess of one-seventh of the entire area of the land which ceases to be included in the *bustee*" be omitted.

It will appear that under clause 354 a person who is asked to improve his own *bustee* may apply to the Corporation of Calcutta to exempt him from the operation of the *bustee* regulations, but he shall have to remove all huts within six months from the service of notice. Now if he removes all huts even after the payment of compensation to his tenants and wants to erect a substantial masonry building on his lands, he will not be allowed to do so if there be an alignment of *bustee* street on his land. Therefore the Select Committee has suggested that if he has to construct a street for the convenience of the tenants of other *bustees*, he must be paid compensation, and I find the Hon'ble the Minister in charge of the Bill was kind enough to accept my said suggestion in the Select Committee.

Mr. H. A. STARK: May I rise to a point of order, Sir? Is it permissible to the hon'ble member to refer to what happened in the Select Committee?

Mr. PRESIDENT: I think Babu Amulya Dhone Addy might thank the Hon'ble the Minister privately.

Babu AMULYA DHONE ADDY: If a person is willing to erect masonry buildings on his *bustee* land by the removal of huts, he will not be allowed to do so; he is enforced to open out roads at his own cost for the convenience not only of his tenants but of the tenants of the *bustees* adjoining his own. What I beg to submit is that he should be paid adequate compensation for this. But under sub-clause (*i*) adequate compensation will not be paid. Under this sub-clause the Corporation shall compensate the owner of such land for any such area that is included in the street which is in excess of one-seventh of the entire area of the land which ceases to be included in the *bustee*. That is to say, only a portion of the amount of compensation will be paid to him. I think, Sir, he ought to be fully compensated for the damage or loss that he will *suffer* for opening up certain portions of his land for roads which will not benefit his own tenants but those of the adjoining *bustees*.

The following motion was then, by leave of the Council, withdrawn:—

Babu JATINDRA NATH BASU: "That at the end of the priviso to clause 354(*f*), the following be added, namely:—

> 'If the Corporation pay compensation to the owner for the land . . comprised in such street or passage.'"

Rai MAHENDRA CHANDRA MITRA Bahadur: I beg to support Babu Amulya Dhone Addy's motion which also stands in my name.

In my view it is necessary that full compensation should be allowed. As has been pointed out the existing rules debar the party from the receipt of full compensation. In this view of the matter I have suggested the omission of these words.

Raja RESHEE CASE LAW: I move that in clause 354(7), lines 10 to 12, for the words "which is in excess of one-seventh of the entire area of the land which ceases to be included in the *bustee*" the words "together with compensation for any damages that the laying out of the street may have caused to his other lands which have ceased to be included in the *bustee*" be substituted.

The object of this amendment is two-fold. Firstly, it would be manifestly unjust to deprive the owner of any part of the compensation which by law he is entitled to have for acquisition of his own land. The *bustee* roads were made at his cost, and there is no reason why he should be compelled to contribute anything to the Corporation for the making of their roads when for the *bustee* of the owner which has ceased to be so it is no longer necessary. Secondly, such a *bustee* road may have cut up his other lands in such a way as to make them very unsuitable as building sites. In such cases when the Corporation is going to convert the *bustee* road to Corporation road by acquiring it, it is manifestly unjust that the owner of the land, who would be injuriously affected by the laying out of the road, should not get any compensation for his injurious affection He would have certainly got it if the road was opened out after ordinary acquisitions and there is no equity in depriving him of his just dues in this case.

Mr. S. W. COODE: Babu Amulya Dhone Addy's amendment asks in fact that the Corporation shall improve a private *bustee* at the cost of the Corporation for the benefit of the owner. We come back to the old question of enhanced value; who is to have it? You have to remember that *bustees* ordinarily cover a large area, and that *bustee* land which is being cleared of huts is in an entirely different position from ordinary vacant land at the side of a street. In the latter case the owner might build if he likes, in accordance with the building rules, but in the case of a large vacant area which was formerly *bustee* land, some measure of town-planning is absolutely essential The *bustee* sections were originally framed to procure the better sanitation of these congested and crowded areas, but fortunately they have in fact proved a minor method of town-planning. You have, for instance, a *bustee* belonging to several owners who may have served notices under section 354 and cleared their land of huts. Now it is very desirable that the Corporation should have compulsory power to insist on these owners joining together in a scheme for the development of their property, and this is the very purpose which this clause achieves. If any owner, having a share in a large *bustee*, were competent, after serving a notice under clause 354 to abandon a road which has been aligned under that section, you would immediately stop the town-planning scheme which the alignment has provided for. If, on the other hand, he insists that the Corporation should construct the roads at their own cost and purchase the land, he is very unfairly demanding an advantage to which he would not be entitled if the Corporation itself

were to frame an improvement scheme in regard to this land. If the Corporation wish to make a new road and to acquire the surplus land on either side of the projected road, the Corporation will under the Bill, enjoy the whole of the enhanced net value. If, however, the owner desires to exempt his land, he will then be entitled to pay an exemption fee which corresponds to two-thirds of the enhanced value produced by the improvement. Mr. Addy asks that the Corporation should develop the owner's private property and land and give him the whole benefit of the enhanced value which is produced. Why should the Corporation pay for the land which will merely develop the property for the owner's private benefit? The land will remain in his possession, and he will enjoy the whole of the enhanced value. As a matter of fact the Select Committee has been extraordinarily liberal in this section to the owners of these *bustee* properties. We might reasonably urge that one-third of the total area, which the landlord is required to keep vacant under section 347, might be provided at his cost also in the case of the roads provided under section 354, but we were more generous and we have laid down here that only one-seventh of the entire area should be kept vacant for the purpose of constructing roads, streets and passages and any other land which may be necessary for the purpose, while for land in excess of this limit full compensation will be paid to the owners and it seems to me that these amendments attempt to impose a most unfair liability upon the Corporation. I therefore strongly oppose them.

The motions were then put and lost.

Rai Dr. HARIDHAN DUTT Bahadur: I move that after clause 354, the following new clauses be inserted:—

"354A. A *bustee* which has been improved under the foregoing sections or under the provisions of the Calcutta Municipal Act of 1899 may again be taken up for improvement by the Corporation if, in their opinion, such action is necessary in the interests of public health;

Provided, however, that no such action shall be taken until after the expiry of at least 10 years from the date on which the previous improvements were completed."

My amendment is so worded that its purpose is quite clear. I want to give help to the owners of *bustee*. Sir, during the last 10 or 15 years a large number of *bustees* have been improved a great deal, but with the growth of our views what was considered satisfactory 10 or 15 years ago is no longer considered to be so. The Chairman of the Corporation 15 years ago was evidently satisfied with 12 feet streets, but at the present moment Mr. Mallik or perhaps one more energetic than my friend will not be satisfied with streets unless they are at least 20 feet wide. The Improvement Trust has laid down broad roads all over the

city. The Calcutta Municipal Bill has laid down that all our future roads and streets shall be 40 feet wide. I find that our efforts to improve the *bustees* are regulated by the views of the persons who have the control of the Corporation at the particular moment. Sometimes 12 feet streets are considered to be quite satisfactory, but a few years after that 16 or 20 feet roads are insisted upon. That is the reason which has prompted me to suggest that the *bustees* which have been improved to the satisfaction of the powers that be, should not again be taken up for improvement at least until 10 years have elapsed. There must be a line drawn somewhere, and 10 years should be considered quite a reasonable time. If after 10 years a *bustee* is again found to be insanitary, the owner could not reasonably object to its being again taken up for improvement, but to ask him to improve it within the next five years and to issue against him a notice under section 354 would be hard and unfair. These are my reasons for suggesting the insertion of this new clause, so that the owner may know that once he has improved his *bustee* he is quite safe for the next ten years.

Mr. S. W. COODE: We have carefully considered this proposal of Rai Dr. Haridhan Dutt Bahadur and think that it is really unnecessary in view of the other provisions of the Act. Dr. Dutt is aware that when a standard plan has once been approved by the Corporation that plan remains in force and it is always possible for the Corporation to proceed under the ordinary administrative sections against individual huts if abuses in sanitary conditions subsequently creep in. I think Dr. Haridhan Dutt is probably thinking of the kind of *bustee* which many of us know a *bustee* which after being once improved, suffers from neglect, and the roads and rains and the conveniences fall into disrepair and the *bustee* generally has a most forlorn look. In such a case it is always possible for the Corporation to take action in respect of these different conveniences, and to require that they should be repaired and kept in proper order. Sir, from this point of view it seems unnecessary to give the Corporation discretion to issue a second notice.

The motion was then, by leave of the Council, withdrawn.

CLAUSE 356.

Rai MAHENDRA CHANDRA MITRA Bahadur: I move that clause 356 be omitted.

I am for the removal of the entire section and for just reasons. It appears that the huts are in occupation for five years by the owners or occupiers and a notice is served on them for the removal of those huts and they are suddenly asked to vacate them. The Corporation shall pay to the owners, under this clause, such compensation as, according to their judgment, they may consider reasonable. Then in the latter part of the clause it is mentioned that such compensation shall in no case exceed the

value of the hut less the value of the materials thereof. So, under these circumstances, in my humble opinion it would be a hardship on these owners or occupiers, and I submit that this clause 356 should be omitted.

SHAH SYED EMDADUL HAQ spoke in Bengali in support of the amendment.

Babu AMULYA DHONE ADDY: I support the motion.

Babu AMULYA DHONE ADDY: I move if the above motion be not carried—

(*i*) that in clause 356, sub-clause (*1*), line 2, for the words "five years" the following words be substituted, namely:—

"seven years in the case of a *adpata* hut and ten years in the case of a tiled hut;"

(*ii*) that in clause 356, sub-clause (*1*), line 7, for the words "owner of the land or the owners or occupiers" the word "owner" be substituted; and

(*iii*) that in clause 356, sub-clause (*2*), lines 4 to 6, all the words beginning with the words "but such compensation" be omitted.

Sir, this is a new section and there is no such provision either in the existing Act or in the Bombay Municipal Act or in any other Municipal Act of India. It clearly shows that there is going to be one law for the rich and another for the poor. Under this clause the owner of a *bustee* is called upon to remove huts within five years so as to comply with *bustee* street alignments and hut alignment lines. In the case of masonry buildings, if a person happens to be the owner of a block of masonry buildings he cannot be called upon to remove his buildings or any portion thereof which falls within the alignment of a street unless he is paid adequate compensation for the removal of his buildings and for the acquisition of his lands. But if he happens to be the owner of a block of huts and if some of the huts fall within the alignment of a *bustee* street or even hut alignment line, he can be called upon to remove those huts or portion thereof within five years. Sub-clause (2) says—

When a hut has been removed under the provisions of sub-clause (1), the Corporation shall pay to the owner thereof such compensation as they may consider to be reasonable.

It is alright, Sir, up to this point, but I would draw attention to the words "but such compensation shall in no case exceed the value of the hut less the value of the materials thereof." I suggest that this portion should be omitted altogether. There is no such provision in the case of masonry buildings. In the case of masonry buildings the owner is paid compensation for the acquisition of land as also compensation for the removal of any portion of masonry buildings. But in the case of huts the owner of

the land or the owner or occupier of the huts is called upon to remove the huts or portion thereof and the compensation which will be paid to the owner of the huts will be quite inadequate.

Then, as regards the period. In the original Bill the period was seven years, but the Select Committee have reduced it to five years. Is it to be presumed that the life of a hut is only five years? Of course in the case of a *golpata* hut it may be five or six years. But what about tiled huts? Is the life of a tiled hut only five years? Certainly not. I would draw attention to the very defective wording of this clause. It says that the Corporation may require the owner of the land to remove the hut. I may say here that the owner of the land may not necessarily be the owner of the hut. It is the tenants who are the owners of the huts. Therefore, the owner of the hut, and not the owner of the land, should be called upon to remove the hut. How can you expect a person to remove a building which does not belong to him? Then again this clause calls upon an occupier to remove the hut. How can you expect him to remove a hut which does not belong to him? What interest has he except to live therein for a few days only? How can you call upon him to vacate? So it appears this clause is not only defective but highly objectionable. Under this clause you call upon the owner or occupier to remove the hut and you will pay him only such compensation as shall in no case exceed the value of the hut less the value of the materials. Why will you not pay the value of the materials? It may be argued that the owner gets the materials. But what is the value of the materials? Is it not less than the value of the materials with which the hut was erected? Further, I may point out that this clause has been objected to by several public bodies of Calcutta. Therefore, I suggest that this clause be omitted altogether and if it is retained then it should be improved in the terms as set forth in my amendment.

Mr. S. W. GOODE: Several years ago the Calcutta Corporation became alive to the necessity of providing for the future development of suburban areas and *bustee* areas. The *bustee* Department prepared surveys maps showing all the *bustees* lying in Calcutta and also vac[illegible]eds and marking thereon hut alignment lines and *bustee* road al[illegible]. These plans were then laid before the Road and Buildings Special Committee and after hearing hundreds of objections, they approved those plans with such modifications as they thought necessary, with a view to improve those areas. Now, it has been found that as a matter of fact it is very difficult, to ensure that huts should be built in accordance with the hut alignment line. The *Bustee* Department in fact find it extremely difficult to maintain in all their integrity the hut alignment schemes which they have prepared. To meet this difficulty, the Select Committee have now proposed that after a certain period of time these schemes shall automatically mature. The life of a hut was taken as five years and at the end of that period the Corporation will be in a position to say to a

bustee owner that the alignment plan must be carried out in every particular and that the huts must be set back to provide alignment spaces and that the roads must be opened up. I ask whether this is an unfair proposition?

Babu Amulya Dhone Addy states that the compensation which is to be given to hut-owners is inadequate. On the other hand, I suggest that it is very generous. The Corporation and the Select Committee have agreed to give the full value of the huts, that is, ordinarily the cost of construction less the value of materials which in the case of huts would be very little. Thus, in effect, the Corporation is going to pay for the entire improvement which the *bustee*-owners and the *bustee*-occupiers will obtain. I think from that point of view the clause is very liberal.

On further consideration, however, Government are of opinion that the period of five years, which has been proposed in this clause, is perhaps unduly short. We do not accept Mr. Addy's amendment in full, but Government are willing to adopt in the place of five years the period of seven years which may perhaps better coincide with the life of a hut and I hope that when the period is raised from five to seven years, my hon'ble friend, Rai Mahendra Chandra Mitra Bahadur, will agree to withdraw his amendment.

The motion that clause 356 be omitted was then put and lost.

Mr. S. W. COODE: I now move that for the word "five" in sub-clause (*f*) of clause 356, the word "seven" be substituted.

The motion was then put and agreed to.

The motion standing in the name of Babu Amulya Dhone Addy was then put and lost.

[At this stage the Hon'ble the President left the Chamber and Mr. Deputy-President being absent, the Chair was occupied by Sir Asutosh Chaudhuri.

CLAUSE 357.

Babu AMULYA DHONE ADDY: I move that to clause 357 the following words be added at the end, namely:—

"and the Corporation shall pay adequate compensation for the value of the subsoil of the street or passage as well as for the clear space as stated above."

Sir, it will appear that under clause 357 any person who erects a masonry building in any *bustee* in respect of which a standard plan has been approved, shall, if so required by written notice issued by the Corporation, leave a clear space of 15 feet between the centre line of any street or passage shown in such plan, or of any street the alignment for [illegible] so prescribed, as the case may be, and the nearest part of such building. It is desirable that the width of *bustee* streets should be

widened specially when a masonry building is going to be erected in place of a hut which is a temporary structure and certainly the Corporation should take that opportunity of forcing the owner who wants to erect a masonry building to keep a certain space vacant. That is the reason why this provision has been made. But I beg to submit that the Corporation should not take this opportunity of converting private streets into public streets without payment of any compensation. Let the Corporation force the owner of such land to keep a certain space for the widening of the existing streets, let the Corporation convert private streets into public streets, but they at the same time should pay a reasonable compensation to the persons affected on the acquisition of such lands and for the conversion of private streets into public streets. Sir, that is the reason why the Corporation itself has submitted this recommendation. The Corporation, as will appear from page 31 of the statement of their opinions have recommended that the existing rule 16A of Schedule XVII be substituted for this clause. Rule 16A reads as follows:—

"The following further provisions shall have effect in the case of masonry buildings in *bustees*, that is to say—

(*a*) the owner of the land in a *bustee* on which a masonry building is to be erected shall, if required by the Chairman, give up all land which may be needed for leaving a space of 20 feet from the centre of any *bustee* street provided for under Rule 37A or of any *bustee* street or passage shown on any standard plan approved under section 401 or section 407;

(*b*) all land so given up shall vest in the Corporation for the purposes of a street, and the owner shall receive reasonable compensation therefor".

I draw attention to clause (*b*) of this rule in particular and I beg to submit that even the Corporation though an interested party has recommended that reasonable compensation should be paid to the owner of the adjoining land. It may be said that all these lands are vested in the Corporation under rule 16A, but practically these lands will vest in the Corporation because no one will be allowed to erect buildings on these streets. These streets will only be for the convenience of the public at large. Is it right and just that the person who is forced to give up his land for a public passage should not be given any compensation? With these remarks, I beg to submit that this amendment should be accepted. It is in accordance with the recommendation of the Corporation itself and in accordance with the existing Act.

Rai MAHENDRA CHANDRA MITRA Bahadur: I beg to support this amendment.

Mr. S. W. COODE: This amendment is an old friend in another form. The street is required for the improvement and the development of the *bustee* and it is not clear why the Corporation, who will not be acquiring any surplus land, should be required to pay compensation. I think there

bustee owner that the alignment plan must be carried out in every particular and that the huts must be set back to provide alignment spaces and that the roads must be opened up. I ask whether this is an unfair proposition?

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On further consideration, however, Government are of opinion that the period of five years, which has been proposed in this clause, is perhaps unduly short. We do not accept Mr. Addy's amendment in full, but Government are willing to adopt in the place of five years the period of seven years which may perhaps better coincide with the life of a hut and I hope that when the period is raised from five to seven years, my hon'ble friend, Rai Mahendra Chandra Mitra Bahadur, will agree to withdraw his amendment.

The motion that clause 356 be omitted was then put and lost.

Mr. S. W. COODE: I now move that for the word "five" in sub-clause (*1*) of clause 356, the word "seven" be substituted.

The motion was then put and agreed to.

The motion standing in the name of Babu Amulya Dhone Addy was then put and lost.

[At this stage the Hon'ble the President left the Chamber and Mr. Deputy-President being absent, the Chair was occupied by Sir Asutosh Chaudhuri.

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widened specially when a masonry building is going to be erected in place of a hut which is a temporary structure and certainly the Corporation should take that opportunity of forcing the owner who wants to erect a masonry building to keep a certain space vacant. That is the reason why this provision has been made. But I beg to submit that the Corporation should not take this opportunity of converting private streets into public streets without payment of any compensation. Let the Corporation force the owner of such land to keep a certain space for the widening of the existing streets, let the Corporation convert private streets into public streets, but they at the same time should pay a reasonable compensation to the persons affected on the acquisition of such lands and for the conversion of private streets into public streets. Sir, that is the reason why the Corporation itself has submitted this recommendation. The Corporation, as will appear from page 31 of the statement of their opinions have recommended that the existing rule 16A of Schedule XVII be substituted for this clause. Rule 16A reads as follows:—

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(b) all land so given up shall vest in the Corporation for the purposes of a street, and the owner shall receive reasonable compensation therefor".

I draw attention to clause (*b*) of this rule in particular and I beg to submit that even the Corporation though an interested party has recommended that reasonable compensation should be paid to the owner of the adjoining land. It may be said that all these lands are vested in the Corporation under rule 16A, but practically these lands will vest in the Corporation because no one will be allowed to erect buildings on these streets. These streets will only be for the convenience of the public at large. Is it right and just that the person who is forced to give up his land for a public passage should not be given any compensation? With these remarks, I beg to submit that this amendment should be accepted. It is in accordance with the recommendation of the Corporation itself and in accordance with the existing Act.

Rai MAHENDRA CHANDRA MITRA Bahadur: I beg to support this amendment.

Mr. S. W. COODE: This amendment is an old friend in another form. The street is required for the improvement and the development of the *bustee* and it is not clear why the Corporation, who will not be acquiring any surplus land, should be required to pay compensation. I think there

is absolutely no force in the argument of Mr. Addy and, on the face of it, it would be most unfair to make the Corporation pay for the subsoil. I oppose the amendment.

The motion was then put and lost.

CLAUSE 358

Rai MAHENDRA CHANDRA MITRA Bahadur: I move that clause 358 be omitted.

I apprehend that there would be an additional taxation and, secondly, that taxation will fall upon the occupier eventually. Surely, the employment of a special establishment for the removal of rubbish or offensive matter and imposing on the owner of the *bustee* a rate to defray the cost of such establishment will operate harshly on him. Therefore, my submission to the Council is, that the whole clause 358 be omitted.

Babu JATINDRA NATH BASU: It is the duty of the Corporation to cleanse *bustees*. If there is excessive accumulation of refuse or rubbish in a *bustee*, surely it is due to the negligence on the part of the Corporation staff concerned. I wonder why the Corporation should throw the burden of the removal of the accumulated refuse on the owner or occupier. I have had occasion to inspect *bustees* with officers of the Corporation—the Deputy-Chairman and others—and it has been frequently pointed out that the Conservancy Department is neglectful in their duty in the matter of cleansing *bustees*. The Deputy-Chairman has, in my presence sometimes taken the Conservancy Department to task for not attending to the proper cleansing of *bustees*. Why should there be any accumulation of refuse if a *bustee* is cleaned regularly? The ordinary rates that are paid, that is the consolidated rates include rates for conservancy. So, why should an additional rate be imposed? This additional rate that is going to be imposed will ultimately fall on the occupier of the *bustee* land, because the owner will take very good care to realize it from the occupier. This would, no doubt, be another hardship on the poor. I therefore urge that clause 358 which empowers the Corporation in addition to the ordinary rates to impose a special rate on poor people be deleted.

SHAH SYED EMDADUL HAQ spoke in Bengali in support of the motion.

Babu AMULYA DHONE ADDY: I must support this amendment. Under this clause, if the accumulation of rubbish and offensive matter is excessive in a *bustee*, then the Corporation may sanction the employment of a special staff for the cleansing of the *bustee*. Sir, is it not a fact that the owner pays the consolidated rate in full? Is it not a fact that if there is an excess of refuse in a masonry building, the Corporation can-

not force the owner or the occupier of such building to pay any charge in addition to the consolidated rate? Then, why is it in the case of a *bustee* the owner should be asked to pay? It may be said that it is the *bustee*-owner who is called upon to pay. But it is well-known that it is the tenants who are to pay the charge eventually. The *bustee*-owner will realize the additional rate from the tenants. Therefore, it would be a source of great hardship if the tenants are called upon to pay this *bustee* rate, in addition to the consolidated rate. And what for? For the ordinary services which the Corporation is bound to provide for the cleansing of the *bustees*. That shows there is going to be one law for the rich and another for the poor. That is the reason why the British Indian Association and the Marwari Association have suggested that this should be omitted altogether. That is the reason why the Corporation a few years back strongly opposed a suggestion by the Chairman to levy a *bustee-rate*. It may be said that it is in the existing Act. But it is a dead letter and there is no reason why it should be incorporated in the Bill, specially when we are going to do away with the objectionable portions in it.

Rai Dr. HARIDHAN DUTT Bahadur: I have no sympathy with this amendment. And I will give my reasons. First of all it is only in cases of special nature that the section will be applied. It will be found that the Corporation will have to decide as to whether they require a special staff for the purpose of cleansing a *bustee* before this section can be applied. It is only to be applied when it is found that there is justification for a special establishment, to my mind it is clear that the Corporation will sanction this only when they find that the *bustee* is in such a condition that unless a special staff is appointed it cannot be cleansed. If this be so, if the owner of the tenants of a *bustee* have created conditions which necessitate the appointment of special staff, then I do not see why they should not pay for it. Why should the general body of ratepayers pay for the lapse and negligence of a particular body of tenants and landlords? If any collection of huts in a *bustee* is the cause of special insanitary conditions in a locality and the Corporation have to cleanse it with the help of a special staff appointed by a special resolution, it is only right and fair that those who are responsible for such conditions should pay this special tax.

I find that in the last portion of that section it is provided that without the consent of the owner no such rate shall be imposed in respect of any demodelled *bustee*. Where is the hardship then? If you have a demodelled *bustee* and have left passages for the passing of conservancy carts then there will be no necessity for a special establishment for cleansing the *bustee*. But if you do not allow the *bustee* to be opened up or if you keep it in such a condition that the Conservancy Department of the Corporation cannot cleanse it without a special staff, then, and then only, the question of additional rates would arise. Therefore, I am opposed to the amendment.

Dr. PRAMATHANATH BANERJEA: I support this amendment. It is the duty of the Corporation to keep the city in a state of cleanliness. If there is an accumulation of rubbish or offensive matter in a *bustee*, it may be due to the neglect of the employees of the Corporation. There is no such reason why the owners or the occupiers of the *bustee* should be made to pay fresh taxes in order that such accumulation of rubbish ma be removed. My friend, Rai Dr. Haridhan Dutt Bahadur, says that a special resolution of the Corporation will be necessary for imposing such a tax. But such special resolution will be passed on a report of any officer of the Corporation. The members of the Corporation are not likely to visit the locality to find out whether the accumulation is due to the negligence of the Corporation employees, or of the owners or occupiers of the *bustee*. I think as Mr. Jatindra Nath Basu has just pointed out, that it would be a great hardship to the occupiers. Although it is laid down here that the owner will bear the burden of the rates, it will really be shifted on to the occupiers. I, therefore, support this amendment.

Mr. S. W. GOODE: I would like to invite the attention of the House to the words which are underlined—" Where in the opinion of the Corporation the accumulation of rubbish of offensive matter is excessive, they, etc." These words were added by the Select Committee with the idea of ensuring that this power should only be resorted to in exceptional cases. As a matter of fact, so far as my own experience goes, this section, which exists in the present Act, has practically never been used. The system of conservancy is now complete. But it might be justified on the ground that in the case of masonry premises, the occupier is required to remove his refuse from his courtyard and to deposit it in a place conveniently situated, so that the Corporation scavenging staff may easily remove it; and that analogy will afford some ground for requiring the *bustee*-owners in exceptional circumstances to make their own arrangements. Personally I do not feel very great fondness for this provision, and I think it will do no particular harm to omit. But on the whole I think that to meet exceptional cases, it might be retained.

The motion was then put and agreed to.

The following motion was not put as being covered by a previous decision of the Council:—

Rai FANINDRALAL DE Bahadur and Babu JATINDRA NATH BASU: "That in clause 359, lines 2 and 3, the words 'for which no establishment is maintained under section 358' be omitted."

CLAUSE 361.

Mr. S. W. GOODE: With your permission I will formally move the following motions on behalf of the Hon'ble the Minister:—

"That in clause 361(*1*) (*1*), line 4, for the words 'portion of a building' the words 'verandah, platform or other similar structure' be substituted."

"That in clause 361(*1*), lines 60 and 61, for the words 'portion of the building, block of buildings, verandah' the word 'blocks of buildings, verandah, platform' be substituted."

The motions were then put and agreed to.

CLAUSE 362.

The following amendment standing in the name of Shah Syed Emdadul Haq was, in the absence of the member, deemed to be withdrawn :—

"That clause 362 (3) be omitted."

CLAUSE 363.

The following amendment was, by leave of the Council, withdrawn :—

Babu AMULYA DHONE ADDY: "That at the end of clause 363(*1*) (*c*) the following be added, namely :-

(*d*) the Corporation may take measures for lighting private streets.'"

Babu AMULYA DHONE ADDY: I move that clause 363(3) be omitted.

Mr. S. W. GOODE: I would like to adopt Babu Amulya Dhone Addy's suggestion with some drafting changes. Instead of omitting the whole of that sub-clause I would suggest that we provide that the liability of the Corporation shall not be entirely extinguished, but nevertheless they should enjoy certain statutory rights in respect of fixing gas brackets, etc., to walls of houses. It is very reasonable that the Corporation should enjoy the right which they have been enjoying for years, of fixing brackets on walls of houses, if it is difficult to find any other place for the same. But I do agree with Babu Amulya Dhone Addy in holding that it is unfair to give the Corporation unrestricted immunity from any civil action which might lie against them owing to the exercise of their power in a negligent manner. I, therefore, suggest that in line 3 of sub-clause 3 of this clause after the word "liable" the following words be inserted "except on the ground of negligence" and further for the words "this section" I would substitute "sub-section (2)," as the power of placing gas brackets, etc., on walls is given in sub-clause (2). I hope Babu Amulya Dhone Addy will accept my amendment in place of his own.

Babu AMULYA DHONE ADDY: I accept it with thanks and I withdraw my motion.

Mr Goode's amended motion was then put and agreed to.

CLAUSES 364A AND 364B.

The following amendments standing in the name of Raja Reshee Case Law were, in the absence of the member, deemed to be withdrawn :—

"That in clause 364 A (*c*), lines 1 and 2, the words 'or suffer or permit any animal to be fed or to feed' be omitted."

"That clause 364B be omitted."

CLAUSE 366.

The following amendments standing in the name of Babu Amulya Dhone Addy were, in the absence of the member, deemed to be withdrawn :—

"That in clause 366 (*1*), lines 8 and 9, the words 'or, where open space is available within' be omitted."

"That in clause 366 (*3*), line 8, the words 'or in some portion of such premises' be omitted."

"That clause 366 (*4*) be omitted."

[At this stage the Hon'ble the President returned to the Chair.]

CLAUSE 367.

The following motion standing in the name of Babu Amulya Dhone Addy was, in the absence of the member, deemed to be withdrawn :—

"That clause 367 (*a*) be omitted."

CLAUSE 375

Babu JATINDRA NATH BASU: I move that in clause 375 (*1*) -

(*1*) in line 1, after the word "shall" the words "prepare and;"

(2) in line 4, after the word "shall" the words "contain such particulars as to the action taken by the Corporation or the owner in pursuance of such order or otherwise, as the Executive Officer shall think fit and shall" be inserted

Mr. S. W. COODE: We would accept this amendment

The motion was then put and agreed to

CLAUSES 377 AND 381

The following amendments standing in the name of Shah Syed Emdadul Haq were, in the absence of the member, deemed to be withdrawn :-

"That in clause 377 (*1*), line 2, for the words 'a fortnight' the words 'three weeks' be substituted"

"That in clause 381 (*3*), line 1, for the word 'consider' the word 'hear' be substituted."

CLAUSE 379.

The following amendment standing in the name of Raja Reshee Case Law was, in the absence of the member, deemed to be withdrawn :—

"That at the end of clause 379 (*1*), the following be inserted, namely,—

'Provided that nothing in this sub-section shall apply to factories or workshops driven by electricity where the number of persons working in the factory or workshop is less than ten.'"

CLAUSE 388.

Mr. SYED NASIM ALI: I move that clause 388 (2) be omitted.

My object is apparent. Apart from all other questions I shall take up the arguments which have been advanced in time and out of time to substantiate the proposition that it is only the slaughter of cows which is mainly responsible for the deficiency of the milk supply in Calcutta. I shall first deal with the economic aspect of the question, and I am quite sure that I shall convince the House that the enactment of this subsection will defeat the very object for which it is being enacted. It is known to many of my friends in the Council how this trade is carried on in Calcutta. It is known to all that the butchers purchase the cows from the persons who have got to deal with milk supply. Sir, the *goalas* purchase a certain number of cows in order that they might carry on their milk supply business. After a year when the cattle becomes dry, as they are not in a position to provide sufficient funds for getting a supply of cows, they go to the butcher, sell the cows to them and thus raise a certain amount of money, and they also raise certain other amounts from other sources and thus purchase a new set. That is how they carry on the business here. I put it to the House that if these *goalas* are not allowed to sell these cows to the butcher, how are they to raise the money? I shall be very glad if this Council be able to sanction a sufficient amount of money which would enable these *goalas* to keep their cattle for one year or one year and a half after they become dry. How is he to maintain his cattle during this period I put it seriously to the House to consider. Then, Sir, it is known to everybody that it is very expensive to maintain one cow in Calcutta nowadays. Look at the difficulties of the *goalas*. As soon as his cattle become dry, he is faced with a difficult question—a difficult problem. How is he to maintain his dry cattle for a year or a year and a half? How is he to raise money for his new set? These are the two questions which face him, and it is the solution of these which at once drives him to the butchers to raise money. I do not find any provision in any Act by which these *goalas* can be helped. If you prevent him from raising money in any way, what will things come to, specially when you are not in a position to provide sufficient money to help him? He will not be able to supply the milk you want, and the very object, namely, the increase of milk supply will be defeated. Look at it from another standpoint also. He raises only a certain portion by the sale of the dry cattle and he has got to find out other means for meeting the deficit. How is he going to have this? In any view of the case if you do not allow him to raise money in this way by disposing of the cattle after it has become dry, it would be absolutely impossible for him to get a new set for the supply of milk. Therefore, even on economic grounds, I oppose this proviso and my amendment simply wants that the present state of things must continue until and unless some provision has been made—some real provision has

been made—for increasing the milk supply of this province. Then, Sir, the further question is as to how far this would be feasible. If the Calcutta Corporation decides, for example, that a certain kind of cattle must not be slaughtered, now there is the initial difficulty as to how that is to be ascertained and found out. These things—the need of the people, the need of the *goalas*—must lead them to find out other means, and I think the *phooka* system is mainly responsible for this. No attempt has been made to solve this question, namely, why the *goalas* resort to the *phooka* system.

Mr. PRESIDENT: You need not refer to the *phooka* system, it is not the subject-matter under discussion.

Mr. SYED NASIM ALI: I want to show that it is the slaughter of the cows that has not decreased, but has rather increased, the milk-supply. We all know that a certain restriction has been put on the slaughter of calves. The result is that these calves are practically tortured to death. It is difficult for the *goalas* to maintain the calves. A calf would require, at least a seer and a half of milk, or its equivalent as its food: that is, the *goala* loses a seer and a half of milk every day. Further, the *goalas* has got to maintain the calves for some time, and if the Corporation of Calcuta does not allow them to sell these calves as soon as they become expensive, the result will be that these calves will be starved to death. So, Sir, in any view of the case, if you do not really meet their difficulties, if you do not put an end to the obstacles which are in their way, it would be absurd to think that this legislation would at once increase the milk supply. That cannot be done. These are the initial difficulties.

Then, Sir, I support the amendment on another ground, namely, that there is a fallacy in the argument that the slaughter of cows is gradually decreasing the number of cattle in this province. Sir, the statistics rather go to show that the number of cattle is not decreasing, but is rather increasing so far as this province is concerned. I am perfectly right again in asserting that so far as Bengal is concerned, the number is increasing. Therefore, the real solution would be not in putting an end to the slaughter of cattle, but to improve the quality of the cattle. That is the whole point. If you improve the quality you really increase the milk supply. If you make provision for pasture grounds and other things necessary for the feeding of the cow, if you take steps for the breeding of a good class of cows, if you take steps for having healthy cows, you will be able to solve the difficult question of milk-supply. No amount of artificial legislation can solve this difficulty. Therefore, apart from all other considerations, even on economic grounds, the present system must not be interfered with and the law must stand as it is. I think that so far as this section is concerned it tries to create an innovation which has been hitherto unknown.

There is another argument which is often advanced that if this slaughter of cows be not prohibited, then the Hindu-Moslem unity would be in danger. Sir, so far as my own experience goes, I think it is the activity of Babu Amulya Dhone Addy in the Calcutta Corporation which has rather brought into prominence this question. If really it is a fact that there is a Hindu-Moslem unity and that the Muhammadans in deference to the feelings of the Hindus are going to give that up, then why is this legislation necessary? I quite agree that out of deference to my Hindu friends this should be done. But the moment you force me to do this, the moment you try to legislate over this, I stand by my rights and nobody can take away my rights. I may not exercise my rights out of deference to my Hindu brethren, but the moment you want to legislate, the moment you want to deny that right which I possess, I certainly oppose it. Even extremist Muhammadans, I mean the Khilafat people, are also opposing it. I found in some of the extremist papers that they always took up this attitude. It is one thing to have a promise as a matter of give-and-take, but it is quite another thing to have a legislation. Therefore, those gentlemen who are trying to bring up this question in order to have some innovation are really against Hindu-Moslem unity. It is they who are trying to rip up the old sore.

If it is a fact that the Muhammadans have agreed out of deference to the feelings of Hindus to give it up, then leave the matter there; they will decide for themselves. Why again bring the this into prominence? Why again afford opportunities for controversy? The moment you do that, old controversies are bound to come up. Therefore, instead of helping Hindu-Moslem unity, you really break it. It has further been argued that this is not an essential thing for the Muhammadan community and they are in a position or rather can afford to give it up. I say that the Muhammadan community cannot afford to give it up. It is the staple food, the chief food, for the poorer section of the community who have not got sufficient money for buying fish at 14 annas a seer or mutton at one rupee or one rupee four annas a seer. It is the chief article of food. Would any civilized Government take steps which would in any way restrict the chief food of a particular section of the community? I do not know whether any civilized Government up to the present anywhere in the world has taken steps to put a control on the chief food of a particular community.

Mr. ABDUR RAHEEM: I beg to support the amendment moved by my friend. This matter brings us face to face with a situation of outstanding difficulty of the most tantalizing character. On the one side there is a strong religious sentiment which we are bound to respect, and, on the other, there is the question of the food supply of a very large number of the poorer classes of Muhammadan and Anglo-Indians which we cannot ignore. A great deal of consideration, circumspection and tact are required to find a solution which may be acceptable to all communities, but unhappily for us all, Babu Amulya Dhone Addy and his

friends, looking at the matter from one exclusive standpoint, and carried away by their zeal, have brought this question to the forefront at a time when public opinion is still very sharply divided. When I oppose my Hindu friends in this proposition I assure them that I have due regards for their religious feelings and sentiments.

It is true that the clause is only permissive, intended to give the Corporation power to prohibit the slaughter of any class of cows they may think fit for the improvement of the milk supply, and that any resolution passed under it will require a two-thirds majority. Unhappily, the Corporation have already made up their minds, and passed a resolution prohibiting the slaughter of cows. This fact as also the circumstances under which this decision was arrived at, give up ample ground for apprehension that the power we propose to give may not be properly used, and that the safeguard of a two-thirds majority in a House consisting of 90 members only a small proportion of whom will be Muhammadans, Anglo-Indians and Europeans, may prove illusory in practice. When this matter was discussed in the Corporation in January, 1922, Counsel's opinion was obtained and was to the effect that the prohibition could not be made under the existing law, but that did not deter Babu Amulya Dhone Addy and his friends and they pressed the House to a division, when, strictly speaking, there should have been no discussion or division at all. Then, again, a suggestion was made that the public associations might be consulted, but was unheeded. On the day that the vote was taken, several members were absent at the Council meeting, and in a thin house, in the absence of all the Muhammadan members and several of the European commissioners, the resolution was carried by 16 votes against 4 votes. I recount these details to show that our apprehension of the Corporation being led to hasty and unwise decisions by a group of enthusiasts is real, and we do not believe that the provision of a two-thirds majority is a real safeguard. The resolution of the Corporation, I am referring to, was carried by 16 votes to 4 votes. Can anybody contend that a resolution carried by 16 members out of 50 constituting the Corporation, though constituting a three-fourths majority of those present, can be taken as the considered opinion of the Corporation, or that a decision in the absence of members most vitally interested in the matter was taken after proper consideration? This circumstance proves how easy it is to manipulate a two-thirds or even a three-fourths majority, and I repeat that the provision is useless as a safeguard against misuse of power and discretion in matters in which religious feelings are mixed up with economic considerations. Even assuming that it is not so, it is not right and proper that we should leave the decision in a matter affecting the food supply of about a third of the population of the city in the hands of a few Councillors of the Corporation. This is not the time or the place to discuss the arguments for and against any prohibition of cow-slaughter, but I shall just indicate broadly how vitally the poorer classes of Muhammadans and Anglo-Indians are

interested. The chief consumers of beef are Muhammadans and Europeans. First class beef is consumed mainly by Europeans and to some extent by better class Muhammadans. The rest is consumed by the poorer classes of Muhammadans and Anglo-Indians. If the slaughter of cows is prohibited, the meat supply will undoubtedly be affected, and you cannot expect whole communities to change their habits of centuries and to go in for other foods in substitution. Mutton is more expensive and people cannot afford it. Importation of meat is a possibility, but that also will be too expensive for the poorer classes, and orthodox Muhammadans will not have it. How can we leave it in the power of any majority, be it two-thirds or three-fourths, or any other proportion, to cut off or curtail the food supply of a considerable portion of the population, be it even only a third? It is no use citing examples of what has been done in other places. We must judge the matter from local conditions and what are the facts in Calcutta? Babu Amulya Dhone Addy estimates that about 30,000 cows are slaughtered every year in Calcutta. I admit it is a cruel economic waste to slaughter cows capable of bearing calves. But I ask, how many of these 30,000 cows are capable of bearing calves again? Not more than one or two per cent. Because, they have all been subjected to *phooka* and have been made sterile. Babu Amulya Dhone Addy and his friends argue that if we prohibit the slaughter of cows, *phooka* will be stopped. They are mistaking the cause for the effect. Cows are slaughtered because they have been subjected to *phooka*; they are not subjected to this process because of the facility for slaughter. The *goala* now sells the animals when dry to a butcher and with the money, buys a new animal in milk. It will be a gigantic task to maintain a dry stock farm for about 20,000 to 25,000 cows annually, and as most of them will be sterile, the expenditure in maintaining them will be a corresponding burden on the community. Where are the arrangements for dry stock farms of this magnitude? We say that if these useless animals are not slaughtered, they will be starved to death, that you will be considerably reducing the supply of milk and meat and forcing up their prices. We get no answer to this criticism, but we are met with the general assurance that the inconvenience will only be temporary, and that things will somehow adjust themselves before long. What is to happen in the interval?

There is of course the question of the slaughter of prime cows. We do not want any special legislation to prohibit their slaughter. We enacted a by-law before under the present Municipal Act, levying a deterrent fee, and can do so again. We gave up the idea; not because of want of sufficient legal power, but on account of practical difficulties in finding out which are prime cows and which not, and our expert adviser, the Health officer, said it was a hopeless task to discriminate.

The position then is—we do not want any special power as regards the slaughter of prime cows, and there is no necessity or advantage,

but, on the other hand, considerable harm and inconvenience in stopping the slaughter of other cows in Calcutta. It only helps to preserve animals which are useless for breeding purposes; will not help to conserve the breed or to improve the milk-supply, and the maintenance of these animals will entail a tremendous charge on the public. On the other side, the supply of milk and meat will be affected, prices will be forced up, and the poorer Muhammadans and Anglo-Indians will be badly hit. It is therefore unnecessary to give power to the Corporation to act in the way indicated in the clause. It is also inexpedient, as any hasty step may lead to the most untoward results. For there is no easier way to exasperate the feelings of the community than to hit it in the stomach, and that is what some of my friends propose the Corporation should have power to do. The consequences of any unwise decision on the part of the Corporation will not be confronted to the Municipal sphere. I strongly object, therefore, to vest in the Corporation a power and a discretion which, when exercised, may harm a considerable section of the population and lead to the most undesirable results.

Mr. PRESIDENT: We have had two Muhammadan speakers already. Therefore, I call upon Rai Mahendra Chandra Mitra Bahadur and Babu Amulya Dhone Addy to move their amendments.

Khan Bahadur Maulvi WASIMUDDIN AHMED: I rise to a point of order. I gave notice of an amendment.

Mr. PRESIDENT: You will be called upon presently. I think that you will appreciate that if five Muhammadan members are all going to get up and make long speeches we will not have a fair debate. I must so arrange the debate that we hear one side and then the other. But if the House could have been assured that the five Muhammadan gentlemen would make short speeches, the matter would have been different. As a matter of fact, it looks as if they are going to make long speeches one after the other and we cannot have that.

Rai MAHENDRA CHANDRA MITRA Bahadur: I beg to move—

(*i*) that for clause 388 (2) the following be substituted, namely,—

(2) The Corporation may, at any time, prevent, restrict or regulate the slaughter of any kind or class of cattle in a municipal or private slaughter house in Calcutta as may seem to them proper;

(*ii*) that in clause 388(2), line 6, for the words

"in a municipal or private slaughter-house of such kind or class of cows and calves as may to them seem proper" the following be substituted, namely:—"of any kind or class of cattle in the municipal slaughter houses"; and

(*iii*) that for clause 3(*63*) the following be substituted, namely,—

"*Slaughter-house.*"

(*63*) "Slaughter-house" means any place used for the slaughter of such cattle, goats, kids or pigs as the Corporation may allow"

In moving these amendments I have been solely actuated by the best of motives. I confidently assert that the enactment of a provision which will enable the Corporation to pass a resolution for restricting slaughter of cows and calves and thereby help in conserving the milk supply to the people of all communities will prove beneficial to all parties concerned. I appeal to every member of this Council to deal with this particular provision without any bias or prejudice. It will not do to forget that the problem of milk supply and preservation of cattle for agricultural purposes are matters of supreme importance to the country. It is high time for us to be earnest and practical in making due amends for our past neglect.

This Council represents the culture of both the Hindu and Muhammadan communities of the country, and therefore it will be surprising if any one goes to the length of advancing the plea of religious rites and religion in dealing with this question. I yield to none in my admiration for Islam and it sublime tenets. In fact, I agree with the late Swami Vivekananda who was definitely of opinion that Islam is the man-making religion.

I shall never be able to persuade myself to anything which will hurt the religious susceptibilities of my Islamic friends. Let me assure the Council that the humble author of the life of Mahomed Mohsin is incapable of doing anything prejudicial to Islamic interests. But to my points. Acceptance of my amendments will not affect interest of any party and it will not do to ignore that clause 391, proviso (*3*), gives an entirely free hand to those who want to sacrifice cattle for the sake of observing religious rites.

It is admitted on all hands that the quality of milk has deteriorated and it is necessary to inquire the reason why. What has led to this deterioration and what has been the result? The alarmingly large number of child mortality is primarily and principally due to this deterioration in the quality of milk. I submit that thoughtless and indiscriminate slaughter of almost all the better class of cattle, leaving behind the worthless and inferior stock, is detrimental to the best interests of the country. And does anybody approve of this kind of slaughter of the most useful class of domestic animals? Surely, the present practice ought not to be countenanced by either of the communities concerned.

Anyone who has paid a visit to any of the municipal slaughter-houses in Calcutta will bear me out in my statement and will also agree with Mr. Payne's remark that the present system of indiscriminate slaughter is simply shocking. I think Mr. Payne used the word "abominable."

In no civilized country will people think of prematurely slaughtering cattle which are in milk or temporarily dry. Weight of public opinion or legislation checks such suicidal step.

What has been the result of indiscriminate slaughter of cattle will appear from the following figures taken from page (*vii*) of Voulme I of the Agricultural Statistics :—

Year.			Total number of cattle in British India.
1917-18	...	...	149,112,000
1918-19	...	...	148,901,000
1919-20	...	...	146,166,000
1920-21	...	...	145,103,000

This decrease of 4,000,000 in the number of cattle in three years is a matter of grave concern to the people of the country and I appeal to my friends and colleagues in this Council not to ignore the situation. I once more say that I have moved the amendments with the best of motives and confidently hope that the Council will solidly vote for its acceptance.

Babu AMULYA DHONE ADDY: I beg to support the Rai Bahadur's first amendment which also stands in my name. I also move that if this motion be not carried, that in clause 388 (2), lines 3 to 5, the words "by a resolution in favour of which not less than two-thirds of the members present and voting have voted" be omitted.

I further move that to clause 389 (*1*), the following proviso be added after the existing proviso :—

> "Provided also that the Corporation shall not grant license for sale of meat of such kinds or classes of animals as the Corporation have prohibited from slaughter."

First of all I will explain my position as to why I beg to move these amendments. It will appear from a representation which has been made by the All-India Cow Conference Association as well as the Cow Protection Society that they have suggested the following amendment to the Bill, "that the Corporation may at any time prevent, restrict or regulate the slaughter of any kind or class of cattle in the municipal slaughter-house in Calcutta as may seem to them proper." I will first of all state that this All-India Cow Conference Association consists not only of Indians but also of Europeans; not only of Hindus but also of Muhammadans. The Hon'ble Justice Sir John Woodroffe was the President and the Hon'ble Justice Greaves is the present President of this Association. It will appear that the object of this representation is not a political one. It is also not a religious one, bu tis simply an economic one. That is the reason why the Cow Protection Society has also made this representation. The Hón'ble Justice Sir Asutosh Mukherji is the President of this Society and Mr. Ashraf Ali Khan Choudhury, who is the Vice-President. He is a cousin of ou resteemed Hon'ble the Minister in charge of Agriculture, the

Hon'ble Nawab Saiyid Nawab Ali Chaudhuri. Had it been a religious one, I am sure he would not have joined this Association and I may be allowed to say to my Muhammadan brethren that I would not have taken it up. I admit that I am a Hindu, but had it been a religious question, I would not have moved the prohibition of slaughtering of cows only. What about bullocks? I do not object to the slaughter of bullocks. In Calcutta 90,000 bullocks and cows used to be slaughtered. Out of this 90,000, 60,000 are bullocks. Also 10,000 calves used to be slaughtered. I have never raised my voice against the slaughter of these bullocks. Therefore, it will be apparent that, I had considered it a religious one, I would not have moved these amendments. Simply on economic grounds I have brought forward this matter. With regard to pregnant cows, about 700 pregnant cows used to be slaughtered in Calcutta. It was on the suggestion of Dr. Pierce, the learned Health Officer of the Calcutta Corporation, that the Corporation has prohibited the slaughter of pregnant cows and as regards the calves, it was on the suggestion of our esteemed friend, Mr. Jones—I am really glad that he is now a member of this Council—the editor of the *Statesman and Friend of India*, who is really a friend of India, that the Corporation has prohibited the slaughter of calves, with the exception of those which are used for vaccination purposes. Now it will appear that this is purely an economic question, and the special reason why I advocate this measure is to increase the supply of milk and develop agriculture. Is it not a fact that the prices of food-grains have increased during the last few years? What is the reason? Shortage of cattle. Is it not a fact that the price of milk has become too dear? There was a time when we used to get milk even at 40 seers a rupee, but now in Calcutta we cannot get even 2½ seers for a rupee. What is the result? The result is disastrous. The shortage of milk supply is one of the principal reasons for the high rate of mortality in Calcutta. So far as tuberculosis is concerned, in 1902, the number of deaths from this disease was 38,000, and in 1917, it has gone up to 100,000. So far as general mortality is concerned, in New Zealand the rate of mortality is 10 per 1,000; even in Japan it is 21 per 1,000, but in India it is 38 per 1,000. As regards infant mortality in India it is 260 per 1,000 and so far as Calcutta is concerned it is more tkan 300 per 1,000. It was 386 per 1,000 in 1920 and the rate of infant mortality is much higher amongst Muhammadans than amongst Hindus, not to speak of Anglo-Indians. Therefore, if any step is taken for reducing the rate of infant mortality in Calcutta, it is the Muhammadans who will be more benefited. If any step is taken for the development of agriculture, it is the Muhammadans again who will be specially benefited, and if any step is taken to reduce the prices of food-grains, it is they who would be more benefited, because most of them are very poor. That is the reason why I have suggested that we must take the necessary steps for reducing the rate of infant mortality, for reducing the prices of food-grains especially in Calcutta. It may be said that there are other steps also

which may be taken, viz., provision of pasture grounds, stud-bulls, establishment and maintenance of veterinary dispensaries, prohibition of the export of cows from India to foreign countries. I am grateful to the Government, especially to the Hon'ble the Minister in charge of this Bill, for his having accepted these suggestions of the Corporation and for having already provided them in the Bill now under consideration. But that is not enough. You must take the radical step by which we can reduce the rate of infant mortality. Had it been the case that these cows are slaughtered simply for the supply of food to the poor Anglo-Indians and Muhammadans of Calcutta, the case would have been quite different. But as a matter of fact, cows are slaughtered not only for human consumption but also for the supply of dried meat which is exported in large quantities to Burma. Not only that. A very large number of cows are slaughtered in Calcutta for the supply of hides which are exported in heavy quantities to the foreign ports. It will appear from the administration reports of the Corporation of Calcutta that whenever the price of hides goes up, the number of cows slaughtered also goes up. And whenever the price comes down the number of cows slaughtered also comes down.

Then, Sir, had it been a religious question, the leading Muhammadan gentlemen of India would not have taken part in it. I would draw your attention to the memorable speech of Mr. Mazharul Haq, as the Chairman of the Reception Committee of the All-India Cow Conference Association, at the meeting held at Patna in 1919, strongly urged that the slaughter of cows should be prohibited. Then Hakim Ajmal Khan, as President of the All-India Moslem League, in the year 1919 at the meeting held at Amritsar, declared that the only step which should be taken for reducing the rate of mortality in India is the prevention of the slaughter of cows.

In the year 1921, on the 7th of February, I put a question to the Hon'ble the Minister in charge of Local Self-Government as regards the high prices and scarcity of milk and also about the rate of infant mortality, and he was kind enough to say that Government were aware that the scarcity of good cow's milk was one of the causes of high infantile mortality. Then, Sir, it was stated that the local bodies were taking the necessary steps, as it was their duty to do so. That is the reason why I have suggested that the Corporation of Calcutta should be authorized to prohibit the slaughter of cows or certain classes of cows. This question was raised in 1921 in the House of Lords by Lord Tenterdum, and the then Under Secretary of State—I mean His Excellency Lord Lytton, who is our present Governor and of whom we are proud —was kind enough to give a reply that this question was entrusted to the Ministers under the Government of India Act. That is the reason why I appeal to the Hon'ble the Minister in charge of Local Self-Government and also to the Hon'ble the Minister in charge of Agriculture to take the necessary steps, so that

agriculture can be developed, so that the rate of mortality, especially infant mortality in Calcutta, may be reduced.

Then, even the Amir of Afghanistan, who is an ideal Muhammadan, has been kind enough to legalize to the effect that the slaughter of cows should be prohibited. His Exalted Highness the Nizam of Hyderabad has also prohibited the slaughter of cows in his own Dominion, and in Bengal several municipalities have also prohibited the slaughter of cows and calves. It may be said that most of the Commissioners there are Hindus but what about the Amir of Afghanistan and His Exalted Highness the Nizam of Hyderabad? Are they not true Muhammadans? What is our object in prohibiting the slaughter of cows and not bullocks? It is with a view not only to increase the supply of milk, but also to increase the supply of beef though in course of time. That is the reason why she-goats are not slaughtered by the Hindus. The flesh of he-goats is their food. But in order to keep the supply of goat's flesh, they do not slaughter she-goats. It may be said—and it has been said by our esteemed friend, Maulvi Syed Nasim Ali, for whose opinion I have high regard—that this legislation will interfere with private rights. It is not a fact that building regulations have been enacted in the Bill? Is it not a fact that these regulations will trample down the rights of private persons? Take the case of acquisition of land under the Land Acquisition Act. Is it not an infringement upon private rights? certainly it is, but it must be done because it is absolutely necessary.

[At this stage the member reached the time-limit.]

Babu AMULYA DHONE ADDY: I shall be very grateful if you would kindly allow me five minutes more.

Mr. PRESIDENT: Amulya Babu, you had a full quarter of an hour and in that time you have made a very long speech. You have taken us to New Zealand, Japan, and other places. (Laughter.)

Babu AMULYA DHONE ADDY: Sir, I have got another amendment and I hope to compress your remarks as much as possible.

Mr. PRESIDENT: I shall allow you only a minute more and you should try to compress your remarks as much as possible.

Babu AMULYA DHONE ADDY: Very well, Sir. The Corporation, as I have said, has already prohibited the slaughter of calves and pregnant cows; and if this clause is omitted altogether, the Commissioners will be in a false position, because, in order to legalize it, the Select Committee have made this provision which is a very reasonable one. There are many safeguards, for instance, there is the provision of two-thirds majority. My object is to increase the milk supply. The recommendation of the Select Committee is a very cautious one and I would appeal to my Muhammadan friends to accept it as a compromise.

Mr. PRESIDENT: The Council will now adjourn for 15 minutes, and after the adjournment I shall call upon Mr. Mahboob Aley to move amendment No. 562.

The Council was then adjourned for 15 minutes.

After the adjournment.

Mr. S. MAHBOOB ALEY: I beg leave to withdraw my amendment that in clause 388 (2), in line 5, the word "prevent" be omitted. (Hear, hear.)

With your permission, Sir, I rise to support the motion of Mr. Syed Nasim Ali that clause 388(2) be omitted. I earnestly trust that the Council will put aside all sentiment for the moment and view the question from an entirely dispassionate and statesmanlike standpoint. It will be an act of great oppression if the Corporation were to be allowed by an arbitrary and *ultra vires* provision in the law to stop the meat-supply of a cosmopolitan city like Calcutta.

I hope the Council will carefully consider whether such a provision would help to improve or conserve the milk-supply of any place. I believe I am supported by the opinion of the Government Dairy Expert when I sa ythat such a measure will not serve the desired end. The Corporation must look to other sources for the improvement and conservation of their milk-supply, such as the establishmnet of dairy farms on scientific lines, and not encroach upon the elementary rights of the people to choose their own food. I may warn the Council of the political dangers which attend the passing of this section into law. As long as there is a meat-eating population in the city, they will be guided not only by considerations of choice, but will be forced by economic conditions to select the cheapest food, and if the law does not allow them they will resort to methods which will lead to breaches of the peace and the embarrassment of Government. The clause is only the thin end of the wedge and there is serious apprehension in spite of whatever may be said to the contrary, that the administrative element of the Calcutta Corporation which is admittedly Hindu, in its frame and structure, will get the desired opportunity of letting their sentiments into play and find a pretext for stopping the slaughter of cows for food altogether.

I would therefore appeal to the Council with all the emphasis at my command not to allow this clause in the Bill to be passed into law.

Mr. PRESIDENT: Kishori Babu, I should like you to move all the amendments, namely, Nos. 68, 561, 564 and 565 together.

Babu KISHORI MOHAN CHAUDHURI: I submit, Sir, that amendment No. 565 is the most important one and I would move that formally. The other amendments are consequential and verbal.

Mr. PRESIDENT: Kishori Babu, move them all and make an omnibus speech.

Babu KISHORI MOHAN CHAUDHURI: Very well, Sir. I formally move them. I would not detain the House long. Everything has been stated from both points of view. I would, however, appeal to my Muhammadan friends to consider the fact that this clause is merely an enabling provision as there is that provision of the two-thirds majority, and it will not affect the food supply by even an inch. It is only for the improvement of milk supply that any action can be taken under this clause. So there need be no apprehension on the part of my Muhammadan friends that at any time there will be any interference with the supply of food. Provisos (*ii*) and (*iii*) to clause 391 are quite sufficient. They read as follows:—

(*ii*) Nothing in the foregoing provisions of this section shall be deemed to restrict the slaughter of any animal in any place on the occasion of any festival or ceremony;

(*iii*) Nothing in the foregoing provisions of this section or in the provisions of section 388 shall be deemed to prevent the Corporation from setting apart places for the sacrifice of animals in accordance with religious custom, and for the sale of the flesh thereof.

So, there will be no interference with any religious practices, and the restriction is sought to be imposed only for a particular purpose. There is no question of any Hindu feeling in the matter. As my friend, Mr. Addy, has said, it is an economic question, and I hope my Muhammadan friends will not try to omit the clause.

Of course, in my own amendment, I have suggested that in case any necessity is felt there need not be any restriction that two-thirds members should take part in the debate. I think that if there be any necessity a majority decision should do. In that view I brought forward the amendment. If there is, however, any objection, I am quite willing to withdraw amendment No. 560.

As regards amendment No. 565, I want to provide that no slaughter of male cattle under three years of age and female cattle under four years of age and of pregnant cattle should ever be permitted, and in this respect the enactment in the Bombay Municipality is my guide and inspiration. In a letter——

Mr. PRESIDENT: I do not think you need put in the words "should ever be permitted." The expression "shall be permitted" will be quite sufficient, as it will cover the whole amendment.

Babu KISHORI MOHAN CHAUDHURI: My point is—who is to decide the age of the cattle? As a matter of fact, the Bombay Municipality has enacted such a provision and it has been in operation since April, 1921, and no difficulty has been felt there. It is, of course, a discretionary matter. If anybody is detected in transgressing the provision, there will be a criminal case against him, and if nobody is detected he will, of course, escape. In that view of the matter there will be

no difficulty at all. The people in Bombay have not felt any inconvenience there, and I do not understand how any special difficulty could be felt in Calcutta. For these reasons I submit that my amendment No. 565 will be accepted, because it is absolutely necessary that we should improve the supply of milk and for that purpose prime cattle, pregnant cattle, and milch cattle should be protected. It has been pointed out already by my friend, Mr. Addy, that infant mortality is rapidly increasing especially amongst the Muhammadans. If it is necessary for us, it is necessary for the Muhammadans as well. For these reasons I support the amendment put forward by my friend, Mr. Addy.

Maulvi HAMID-UD-DIN KHAN: I beg to support the amendment moved by my friend, Mr. Syed Nasim Ali. We have heard many things from both sides——

Mr. PRESIDENT: We are not able to hear you, Maulvi Sahib. Would you please speak a little louder—as loud as you can?

Maulvi HAMID-UD-DIN KHAN: Now, what is the reason for the deterioration in the supply of milk in Bengal? To my mind the only answer to that question is that all the pasture lands have been converted into homestead or *bustee* lands and no sufficient pasture grounds have been left to feed the cattle. That is the principal reason why the supply of milk has deteriorated. So far as religion is concerned, I may say that on certain occasions it would cause some difficulties Therefore, I think this controversial matter should not be discussed and ought to be dropped as soon as possible. With these words I support the amendment of my friend Mr. Syed Nasim Ali.

SHAH SYED EMDADUL HAQ addressed the Council in Bengali His speech, translated is as follows:—

My predecessors have been asked to be brief in their speeches, and so it is proper that I too should be brief.

It is well-known to us that the cow is a very useful animal, and so it is desirable that everyone of us should try to increase the number of cows and the quantity of milk from the point of view of utility. It is true that our Hindu brethren take to heart very seriously the idea of killing cows which contribute so much to the benefit of the human race. Liberal Muhammadans of means are not lagging behind to respect such a feeling of the Hindus, and it is with this end in view that they do not sacrifice cows on ceremonial functions if they can do with other animals. Liberal Hindu leaders are of opinion that this matter should be left to the decision of the communities themselves after a full considerations of their mutual views. At the time of considering the question of cow-killing, Mahatma Gandhi was of opinion that the matter should be decided by the consensus of opinion of the communities without laying down any rigid

rules with regard to it. If the proposed clause in the Bill be passed into law it will result in the total prohibition of the slaughter of cows on account of the overwhelming majority of Hindu members in the municipality, and it is no wonder that this provision now intended for Calcutta will gradually find a footing in the mufassal municipalities too. This has been fully dilated upon by my predecessors in their speech and I do not like to dwell any more on this point circumstanced as this, it is desirable that instead of enacting a measure for the total prohibition of the slaughter of cows adequate pasture-fields should be provided, and I am sure that this and some other devices than that now proposed would produce the desired effect. It will be no good if we cry after the prohibition of the slaughter of cows, but remain indifferent to opening up new pasture lands and also to stop the scandalous practice of *phooka*. These are the potent factors in the real solution of the problem now confronting us. And if this resolution is carried it will be nothing but an open defiance of our religion, which has so long enjoyed the privilege of non-interference.

The Muhammadan religion lays down that cows should be sacrificed for religious purposes, and their flesh has been allowed to be taken. We are enjoined by religion to protest against any act done or attempted to be done in contravention of our religion. It is known to everybody in the Council that I strained every nerve to disseminate the *khaddar* propaganda and other kindred subjects and to further the cause of the country towards its goal. Therefore, I would not have spoken on the question of cow-killing if it had not affected our religion. If this clause is allowed to stand in the Bill it will rouse a great deal of excitement amongst the Muhammadan community, and, as a result of the heated passion, a sharp line of demarcation will be imminent in Hindu-Moslem unity.

The Bengal Anjumenn Ulema convened a meeting the other day at Chandpur in the district of Tippera to consider this important question. The meeting was attended by 20 or 25 thousand people, and there was a heated discussion over the point. But by a unanimous opinion they resolved to oppose the insertion of such a baneful provision in the Bill. If this clause is accepted by the Council it will set the country ablaze, and it is not proper that we should remain as silent onlookers when the matter has advanced so far. Many Hindu leaders were present in the meeting. They also became unanimous in their opinion that we should proceed by brotherly feelings to effect Hindu-Moslem unity. It is with these words, Sir, that I cannot but support this amendment.

Khan Bahadur Maulvi WASIMUDDIN AHMED: I consider that this sort of legislation is unfortunate and unhappy for more reasons than one. It gives a rude shock to the idea of Hindu-Moslem entente and shows a lurid light what the swaraj would be like. I strongly oppose all the amendments moved by my Hindu brethren and supprt the amendment moved by my friend, Mr. Syed Nasim Ali. A proviso to a section

generally detracts or makes an exception in favour of some person, but my learned friend, Babu Kishori Mohan Chaudhuri, has made his proviso in such a way that it gives wider power to the municipality than the section itself. Then my friend, Babu Amulya Dhone Addy, has said that it is a question of economy rather than that of religion. I say the same thing. In saying so, my friend did not show any magnanimity because it is a well-known fact that in olden times when the Hindus were respected everywhere in the world, they were in the habit of taking meat. At that time they were respected more than they are at present. It has been stated that in Eastern Bengal where the Muhammadan element predominates a large number of cows are slaughtered. I say that it is there that the first command of God is more freely obeyed than anywhere else. I find that an attempt is made to treat the matter from the ground of economy though they really look upon it from a religious point of view, and, therefore, they commit some mistakes. It has been stated that for the improvement of the milk-supply such and such things are necessary. I say it is quite absurd, because improvement presupposes elimination and construction follows destruction. A few well-fed cows are preferable to a larger number of ill-fed cows. Preservation of cows is a very important question and an economic question too, and it plays an important part in the household of Muhammadans as it is they who really breed cattle. My Hindu brethren will never spend a cowrie even either for maintaining or breeding the cattle. [A voice: Question.] Why should they depend on the Muhammadans for improving the breed of cattle and for milk? There are many Marwari merchants and big Hindu zamindars; why should they not open farms with big pasture lands so that a large number of cattle might come in there. Musalmans cannot but look down upon this point on the mere ground of economy? To take a concrete case, if a Muhammadan of Eastern Bengal has ten cattle in his stock before the beginning of the rainy season, he must calculate what quantity of fodder he has in stock; if the fodder is sufficient for four cattle he must dispose of six, as otherwise the stock would be insufficient for the ten cattle and all the ten would be useless and die by next October; so he disposes of the unnecessary bullocks. In Pabna, which is the centre of transaction of bullocks and other cattle between Eastern Bengal and Western Bengal, we notice, in October and November, herds of cattle come from east to west, but in July the herds go from west to east. People breed these cattle there and after sometime they send them back. This can only be done by opening out large forms here without resorting to the present practice of sending the cattle somewhere else for the purpose of breeding.

Further, this legislation has an important bearing, because the Calcutta Municipality is the model of self-governing institutions and its model will be followed by the whole country. Some provision was made to prevent the slaughter of cows in the Calcutta Municipality and it was followed by the municipalities of Western Bengal. The result was that

the relations between Hindus and Muhammadans became very strained and it cannot be restored to its former position in the near future.

Then again the practice of breeding half-fed cattle should not be allowed. If you want to improve the milk supply and the breed of cattle, then these wretched cattle must be destroyed either to serve the supply of meat or they must die a natural death without being of any utility except to *charmakar*. This section is the thin end of the wedge. It has also been stated that the provision is made only for particular cases. If this provision is allowed to remain in the law, it will be followed by other legislations to the effect that all cows should be preserved and no cattle slaughtered. This will affect the Muhammadan dealers in cattle more than anybody else, because if they are not allowed to slaughter the useless cattle, they will either have to maintain them or dispose of them in some other way, and this some other way could not be anything but to sell them to the butchers. So, if the breeding is not improved after eliminating the wretched cattle, we will not have good bullocks for cultivation, and the dearth of good bulls will result in the shortage of better kinds of cows, and by this process the milk-supply will be stopped. Therefore, it would be better if my Hindu brethren will withdraw all their amendments and vote for the amendment moved by Mr. Syed Nasim Ali.

Mr. J. A. JONES: I rise to oppose the clause which the Select Committe have introduced into this Bill, and I do so because the clause is a departure—and a very dangerous and deplorable departure—from the whole course of municipal law. What is the object with which powers were given to municipalities to regulate the slaughter of cattle? The reason was that private slaughter-houses and the filthy conditions under which the slaughter-houses were carried on were a danger and a nuisance to the community. Therefore, the power of regulating private slaughter was given to municipalities and that was the only reason why the power of regulating the slaughter of animals was conferred on municipalities. Now, it is proposed to give municipalities an entirely different power. It is proposed to make municipalities censors of diet—that is a change which is altogether to be deprecated. It might quite conceivably happen, for example, that some opponents of the consumption of salt might find a place in the municipality and propose that the salt should not be sold in the municipal markets—or sugar or anything else; while others might propose that we should be compelled to wear top hats in the streets. These things are entirely out of the purview of the municipal administration, and so is the censorship of diet. Municipalities should confine themselves in this matter to the sole object of maintaining sanitation.

Mr. Addy has told us that he has moved this amendment without the slightest sentiment of religious prejudice. Well, I should like to ask him why in that case he moved in the Corporation that the slaughter of all cows should be prohibited?

Babu AMULYA DHONE ADDY: Not bullocks, Sir.

Mr. J. A. JONES: I would very much like Mr. Addy to say on his conscience that in making that proposition he was not moved by some religious feeling. In any case, whatever, may be Mr. Addy's motive, the fact remains that bringing in this restriction does introduce a religious element and a source of religious strife into a municipal body which ought to be entirely free from any such influence. Therefore, on that ground alone, I would ask the House to throw this clause out. In the Corporation we want to work—and have always worked—with the utmost friendliness without being swayed by questions of religion and race and it would be very deplorable if this bone of contention be put into our discussions and disturb what has hitherto been a very happy family. (Hear, hear.) Mr. Addy has been very much concerned about the milk supply of Calcutta and the very heavy infant mortality. I entirely agree with him. The infant mortality here is deplorable and disgraceful, but as bearing upon the motives with which this question has been approached, I would inform the Council, and perhaps members already know, that Mr. Payne, when he was Chairman, formulated a scheme by which people who were interested in the milk-supply might form a company, secure pasture for cattle, and provide Calcutta with a model milk-supply, but this scheme fell through, and why? Because the very gentlemen who said they were most deeply concerned at the infant mortality, would not pay a pice to support the proposition.

Then we are told it is an economic question; Mr. Addy wishes us to believe it is nothing else at the present moment. If anything has been shown more clearly by experts of all kinds, it is that cows are slaughtered because they do not yield milk; the prevention of slaughter, would therefore have nothing to do with the supply of milk. That is obvious. In the second place, the reason why cows are slaughtered is surely an economic reason: it is not owing to the facility of slaughter. It is a fact that a cow-keeper cannot afford to keep a dry animal, therefore the proper way of approaching the problem is that of providing pasturage. I would appeal to my Hindu friends here to set aside the whole of this religio question, to treat it as an economic question and I can assure them the if they do so, the whole European community will most certainly jo with them in trying to find a remedy.

Dr. PRAMATHANATH BANERJEA: The amendments which have been moved to clause 388 fall into two classes. Some members think that the provision has not gone far enough; there are others again who are unwilling to entrust the Corporation with power to restrict the slaughter of cattle at all. This provision, therefore, fails to satisfy enthusiasts on both sides, and this, I take it, is a great recommendation in its favour.

The necessity for inserting this section is obvious. At present the Corporation has not the power to prevent or restrict the slaughter of cattle.

By this section it is proposed to give to the Corporation the power of restricting or regulating the slaughter of a certain class or kind of cattle. It is a permissive, not an obligatory section, and the concession of this power is accompanied by a safeguard, namely, that two-thirds of the members present and voting, must have voted in favour of it. Thus there is no reason to fear that the power will be used unless there is a real need for it.

Mr. Syed Nasim Ali has indulged in a great amount of irrelevant talk. Why does he take it that all dry cattle will be prevented from being slaughtered? It is very unfortunate that our Muhammadan friends have sought to make a religious question of it. I would also ask my Hindu friends to abstain from regarding it as a religious question. The whole question is an economic one, and the object has been made clear in the wording of the section. The Corporation can only prevent or restrict slaughter for the purpose of improving and conserving the milk-supply of the city. Milk, it will be admitted by all, is an absolute necessity for infants, and the Corporation would be failing in its duty if it did not take steps to improve its supply. Infant mortality in Calcutta is appalling both among Hindus and Muhammadans; it is higher in the case of Muhammadans than in the case of Hindus.

Mr. PRESIDENT: We have had all that, Dr Banerjea Please do not repeat the arguments of previous speakers.

Dr. PRAMATHANATH BANERJEA: In this connection, I may be permitted to point out that in some of the other provinces of India, steps have been taken with a view to prevent the slaughter of animals fit for agricultural purposes, as well as necessary for the supply of a sufficient quantity of milk. According to a resolution moved by Mr. Kelkar, some time back, a notification was issued in the Central Provinces under the provisions of which any animal brought for slaughter at the slaughter-house is presented for examination by a supervisor, and certain classes of cattle, such as those that are pregnant or in milk, are rejected. I do not see why there should be any objection to the retention of this section.

Mr. H. A. STARK: If I had my choice, I would not partake in a debate on what, we must all acknowledge, is in this House a delicate subject; but I am here to represent a constituency that returned me, and which is vitally concerned in the fate of this section 388. Consequently I am under an obligation to join in the discussion. In the first place Sir, section 388 (2) would appear to be altogether innocent, in fact almost beneficient; but the moment we pass on to the amendments, we begin to see the cloven hoof. We are told in the first place it is a concession made. But even this very concession we ought to avoid because we are perfectly certain that the concession will inevitably be used. In the second place, we find in Mr. Addy's amendment that the very important words "for the purpose of improving and conserving the milk-supply" are entirely absent. I find, however, that Rai Mahendra Chandra Mitra wants the

Corporation to have the power at any time to prevent, restrict or regulate the slaughter . . . of any kind or class of cattle, and so on, without assigning any reason for taking this action; so that it is not altogether so innocent if you take the section as it stands in regard to the Bill to which this is an amendment.

Again, Sir, further on, in a later amendment, we find it proposed to empower the Corporation to take permissive action, without it being necessary to have the vote of two-thirds of those who are voting. Now that we notice this important point, I think it may suggest to us that the prohibition of cow-killing is not being approached altogether as an economic question, and that it has been impossible for some to entirely remove from the question that great depth of religious feeling which we not only understand, but also appreciate and greatly sympathize with. What should be remembered is that with the introduction of these two amendments indicate the zeal of the movers has outstripped their discretion, and instead of doing a service to their cause, they have done it the greatest dis-service. The article of food under consideration is of the cheapest quality and the first importance in Calcutta, and forms the staple article of food of at least one-third of the people of Calcutta. If the slaughter of cattle is prevented, there is no doubt that the price of other meats will go up. I was only this morning at one of the largest charitable schools in Calcutta, and I found that the amount spent on this particular article of food was nearly Rs. 1,000 a month, or Rs. 12,000 a year, and that school could not possibly afford to give its pupils mutton which is three times the price of this one article of food.

To this school the cost of meat diet would go up from Rs. 12,000 a year to Rs. 36,000; and what happened in this school was an index of what would be the case in every Anglo-Indian family if the slaughter of cattle should be disallowed.

In the Instrument of Instructions of His Majesty the King Emperor the Governors of Provinces are definitely charged to do all they can to preserve the peace, religious toleration and mutual good will. How can they succeed if in a Council like this we introduce a subject which must bring about friction and ill-feeling? In the mufassal a large number of cattle are destroyed for their hide. Let us try and stop this if we can. We also know that in the hot weather for want of pasturage and on account of rinderpest, thousands of cattle die. It is not by conserving cattle in Calcutta alone that we improve the milk supply. The form of tyranny proposed in these amendments is not one to which the ratepayers of Calcutta will submit.

Rai JOCENDRA CHUNDER GHOSE Bahadur: The realities of life cannot be ignored. There is only one live question in India and that is the cow question. It has rankled in the hearts of the Hindu population for 800 years. Is there no statesman here who can find a means of reconciliation between these two contending parties and bring peace to this

distracted land? When Mr. S. Mahboob Ali moved his amendment omitting only the word "prevent" I thought that there was a means of reconciliation, but communal feeling was too strong for him and he withdrew it. Sir, I am here to give expression to the very deep feeling which is rankling in the hearts of everybody. I myself do not attach any religious significance to the question of cow-slaughter, but the feeling is there a feeling which cannot be ignored. If there were a Muhammadan Emperor here, a wise Emperor like Akbar, who prohibited cow-slaughter throughout his dominions; he would prohibit it; the Amir of Kabul did it, the Nizam of Hyderabad has done it, and I believe, if Sir Abd-ur-Rahim or the Nawab Bahadur or Mr Syed Nasim Ali were made Nawabs of Bengal, I feel that they would prohibit it. When responsibility comes then comes the desire for reconciliation. But when people are irresponsible and only want to seek their own interests, their own religious prejudice, then this question does not trouble them.

Having said this, I now discuss it from an economic point of view. It has been amply proved that milk is sold at two seers for the rupee because there are no cows. It is an absolute falsehood to say that beef is the staple food of the Muhammadans of Bengal; it is not. The large body of Muhammadans never touch it except on festive occasions, but speaking of the Calcutta Municipality, speaking of the great body of Muhammadans, why do you say it is the staple food of Muhammadans?

Mr. PRESIDENT: All this really does not matter because we are talking about Calcutta. It does not matter what is done in the mufassal.

Rai JOGENDRA CHUNDER GHOSE Bahadur: Why do you say beef is the staple food of Muhammadans in general? It is not. [A voice: We had a lot of trouble.] Speaking of Calcutta, it will be a source of very great trouble very soon The Muhammadan and Hindu cultivators sell their cattle in thousands in the Calcutta market, because they cannot resist the temptation of a little cash money. Prime cows, calves and every sort of saleable cattle is sold to the detriment of the entire nation. Who will suffer? The cultivators. And who are the cultivators? 80 per cent. of the Muhammadans of this country. They are the best judges; take their opinion, and you will know how much they suffer on account of the loss of cattle. When there is an outbreak of rinderpest -

Mr. PRESIDENT: I do not quite understand your argument. You suggest that people in the mufassal suffer because in Calcutta cattle are slaughtered?

Rai JOGENDRA CHUNDER GHOSE Bahadur: What I say is this: Cows and bullocks are brought to Calcutta in tens of thousands and sold for cash money and the people in the mufassal suffer. It is a very clear proposition and cannot be gainsaid. Why should you not consider this question from a broad broken point of view; why should you bring

in religious prejudice and antipathy; we have had enough of it for the last 800 years; get rid of it for once in your life.

The Hon'ble Sir SURENDRA NATH BANERJEA: I am sorry that this question should have been brought up before this Legislative Council for discussion. I think a matter of this delicate nature ought to have been settled by Hindus and Muhammadans in conference, assembled in a friendly manner, and I am not without hope that with the growth of good and friendly feeling, the question might yet admit of a solution of that kind. I may here intervene with a word of personal explanation. When this clause was inserted by the Select Committee, I was ill and could not attend the meetings of the Committee. When my attention was drawn to it afterwards, I had misgivings about it, and I discussed the matter with the late lamented Rai Radha Charan Pal Bahadur who took the same view about it, but I did not like to intervene in a matter which had been decided by the Select Committee and allowed the clause to remain. I am here now as the spokesman of the Government, and, in the opinion of the Government, sub-clause (2) of clause 388 should be deleted. Sir, there are two considerations which we have to bear in mind—the economic and the religious. Disguise the religious one as much as you may, exhaust upon it all the resources of your language, still there it lurks as a spectre overshadowing the whole situation. As far as the economic question is concerned, I must say I have listened with great interest to the discussion, but I remain unconvinced. Arguments have been adduced on the one side, arguments have been brought forward on the other, but the matter requires examination by a competent committee. This is hardly the place to dispose of a consideration of this knid, but as I said just now there is the religious feeling behind, there is the anti-cow-killing movement inspired by the lottiest of feelings which is opposed to cow-killing. Then again, there are my Muhammadan friends who are opposed to the movement. Thus there is this conflict bewteen creed and creed and a religious issue is masked under an economical guise. That being so, it becomes the duty of a responsible Government to hold the balance evenly and do nothing which would let loose religious passions with all their deleterious consequences, culminating in bigotry, fanaticism and similar dire results.

The object of my friend Mr. Addy's motion, the whole trend of his activities, is to conserve and improve the milk-supply, but I venture to think that the Bill gives ample powers in that direction, and therefore the clause is unnecessary from that point of view. Having regard to the feelings which have been evoked and of which there have been manifestations in this House, and which will be reflected in the country at large, it seems to me that it is the duty of a responsible Government to prevent an outburst of this nature, and therefore, on behalf of Government, I desire to say that we support the view that sub-clause (2) of clause 388 should be deleted.

The motion that clause 388(2) be omitted was put and a division taken with the following result:—

AYES.

Afzal, Nawabzada K. M., Khan Bahadur.
Ahmed, Khan Bahadur Maulvi Wasimuddin.
Ahmed, Maulvi Azaharuddin.
Ahmed, Maulvi Rafi Uddin.
Ahmed, Maulvi Yahainuddin.
Ahmed, Mr. M.
Ahmed, Munshi Jafar.
Aley, Mr. S. Mahboob.
Ali, Mr. Syed Erfan.
Ali, Mr. Syed Nasim.
Ali, Munshi Amir.
Ali, Munshi Ayub.
Azam, Khan Bahadur Khwaja Mohamed.
Banerjea, the Hon'ble Sir Surendra Nath.
Barton, Mr. H.
Bentley, Dr. C. A.
Birley, Mr. L.
Chaudhuri, Khan Bahadur Maulvi Hafizar Rahman.
Chaudhuri, Maulvi Shah Muhammad.
Chaudhuri, the Hon'ble the Nawab Saiyid Nawab Ali, Khan Bahadur.
Crawford, Mr. T. C.
De, Mr. K. C.
Deare, Major-General B. H.
DeLisle, Mr. J. A.
Dey, Mr. C. C.
Donald, the Hon'ble Mr. J.
Donovan, Mr. J. T.
Emerson, Mr. T.
Farequi, Mr. K. C. M.
Forrester, Mr. J. Campbell.
Goode, Mr. S. W.
Haq, Shah Syed Emdadul.
Hornell, Mr. W. W.
Huntingford, Mr. G. T.
Huq, Maulvi Ekramul.
Karim, Maulvi Fazlal.
Khan, Maulvi Hamid-ud-din.
Khan, Maulvi Md. Rafique Uddin.
Maharajadhiraja Bahadur of Burdwan, the Hon'ble the.
Makramali, Munshi.
Marr, Mr. A.
McAlpin, Mr. M. C.
Mitter, the Hon'ble Mr. P. C.
Mukerjee, Mr. S. C.
Raheem, Mr. Abdur.
Rahim, the Hon'ble Sir Abd-ur-.
Raut, Maulvi Shah Abdur.
Robertson, Mr. F. W.
Roy, Mr. G. N.
Roy, Mr. J. N.
Salam, Khan Bahadur Maulvi Abdus.
Skinner, Mr. H. E.
Stark, Mr. H. A.
Stephenson, the Hon'ble Mr. H. L.
Stuart-Williams, Mr. S. C.

NOES.

Addy, Babu Amulya Dhone.
Banerjea, Dr. Pramathanath.
Basu, Babu Jatindra Nath
Bhattacharji, Babu Hem Chandra.
Chaudhuri, Babu Kishori Mohan.
Chaudhuri, Rai Harendranath.
Chaudhuri, Sir Asutosh.
Das Gupta, Rai Bahadur Nibaran Chandra.
De, Rai Bahadur Faninderalal.
Dass, Rai Bahadur Pyari Lal.
Dutt, Rai Bahadur Dr. Haridhan.
Ghose, Rai Bahadur Jogendra Chunder.
Khaitan, Babu Debi Prasad
Mallik, Babu Surendra Nath.
Mitra, Rai Bahadur Mahendra Chandra.
Maitra, Dr. Jatindra Nath.
Mukharji, Babu Satish Chandra
Mukherjee, Babu Nitya Dhon.
Mukherji, Professor S. C.
Mukhopadhaya, Babu Sarat Chandra
Nasker, Babu Hem Chandra.
Ray, Kumar Shib Shekhareswar.
Ray Choudhury, Raja Manmatha Nath.
Rishi, Babu Rasik Chandra.
Ray, Babu Jogendra Krishna.
Ray, Babu Jogendra Nath.
Roy, Maharaja Bahadur Kishaunish Chandra.
Roy, Mr. Bijoyprasad Singh.
Roy, Rai Bahadur Lalit Mohan Singh.
Roy Chaudhuri, Babu Sailaja Nath.
Sen, Babu Mani Lal.

The Ayes being 55 and the Noes 31, the motion was carried.

The following motion was covered by the previous decision:—

"That for clause 388(2) the following be substituted, namely,—

'(2) The Corporation may, at any time, prevent, restrict or regulate the slaughter of any kind or class of cattle in a municipal or private slaughter-house in Calcutta as may seem to them proper.'"

The following amendment was then put:—

"That to clause 389(*1*), the following proviso be added after the existing proviso:—

'Provided also that the Corporation shall not grant license for sale of meat of such kinds or classes of animals as the Corporation have prohibited from slaughter.'"

Babu AMULYA DHONE ADDY: I want a division.

Mr. PRESIDENT: Very well. [A division was called.]

Babu AMULYA DHONE ADDY: I withdraw; I do not want a division.

Mr. PRESIDENT: This is very inconvenient; members must give serious thought before calling for divisions and thus wasting the time of the Council.

The motion was then declared lost.

The following amendment was then put and lost:—

Rai MAHENDRA CHANDRA MITRA Bahadur: "That for clause 3(*63*) the following be substituted, namely:—

Slaughter-house

'(*63*) "slaughter-house" means any place used for the slaughter of such cattle, sheep, goats, kids or pigs as the Corporation may allow'"

The following motion was then put and lost:—

Babu KISHORI MOHAN CHAUDHURI: "That in clause 3(*63*)—

(*i*) in line 2, after the words 'slaughter of' the word 'such,' be inserted, and

(*ii*) in line 4, after the word 'meat' the words 'as the Corporation may allow' be inserted"

The following amendment was covered by the previous decision and was not put.

Babu AMULYA DHONE ADDY: "That in clause 3, line 3, sub-clause (*63*) after the word 'Pigs,' the words 'as the Corporation may allow' be inserted."

Adjournment.

The Council was then adjourned till 3 P.M. on Tuesday, the 6th March, 1923, at the Town Hall, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE Council met in the Council Chamber in the Town Hall, Calcutta, on Tuesday, the 6th March, 1923, at 3 P.M.

Present:

The Hon'ble the President in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers, and 85 nominated and elected members.

Government Bill.

The Calcutta Municipal Bill, 1921.

CLAUSE 391.

Babu AMULYA DHONE ADDY: I move that clause 391(*la*) be omitted.

Sub-clause (*la*) of clause 391 says that every such license shall be renewable annually on the certificate of the Health Officer and sub-clause (*l*) says that no person shall, without or otherwise than in conformity with the terms of a license granted by the Corporation in this behalf keep open any private market or wilfully or negligently permit any place to be used as a private market. I beg to submit that it is unnecessary because if a person does not comply with the conditions laid down in the license granted by the Corporation, then his license can be revoked at any time by the Corporation. Therefore, this provision is quite unnecessary. Secondly, there is no such provision in the existing Act. Thirdly, why should it be on the certificate of the Health Officer? Why should the market owner be under the sweet will of the Health Officer? Of course the Health Officer may submit his opinion to the Corporation, but the Corporation should be the sole authority and not the Health Officer for cancelling a license.

Mr. D. J. COHEN: I move that in line 1 of clause 391(*la*) for the word "annually" the word "triennially" be substituted.

This clause is for the purpose of enabling the Corporation to control the owners of private markets. I do not agree with Mr. Addy that we should do away with the clause altogether, because we know how very difficult it is to make the owners of private markets comply with the requisition of the Health Officer. While I agree that this clause should

he retained, I submit, we need not insist on an annual license, particularly in view of the proviso which follows. There you have the owner always under your control. You can always suspend his license if he fails to comply with the provisions of the Act. For these reasons, while I think that a license is very necessary, I am of opinion that these licenses should be renewed triennially instead of annually.

Rai FANINDRALAL DE Bahadur: The construction and the maintenance of the private markets or slaughter-houses according to the rules and regulations of the Corporation will require a certain amount of capital expenditure and some other permanent arrangements. It is desirable, therefore, that the license should, in the normal course enjoy the privilege for a little longer duration; there are so many ways in which the Corporation can effectively check any abuse that no difficulty will arise if the licenses are renewed triennially.

Babu JATINDRA NATH BASU: I support the amendment moved by my Hon'ble friends, Mr. D. J. Cohen and Rai Fanindralal De Bahadur, and I beg leave to withdraw the amendment No. 572 which stands in my name. In a market, there are two things to be looked into - one is the construction of the market, and the other is that it has to be kept clean. So far as the first is concerned the Corporation, when sanctioning the construction of the market, should see that all its regulations and by-laws are complied with, that the stalls are properly built and that there are adequate passages and so forth. So far as the question of keeping the market clean is concerned, the Corporation has ample powers under which the market can be kept clean. I do not think that there is any real necessity for requiring the owner of a private market to ask for a license every year. Once you have sanctioned the construction of a market and it has been constructed in compliance with the conditions laid down by you, the owner should be left in peace for at least three years.

Babu AMULYA DHONE ADDY: On behalf of Maulvi Hamid-ud-din Khan, I move that in clause 391(2), the words "and in respect of every place set apart under proviso (iii) to that sub-section," be omitted.

It would appear that a license fee shall have to be paid not only for the construction of private markets, but also for a space for the sacrifice of animals in accordance with religious customs. Therefore, I beg to submit that no license fee should be levied on a place set apart for religious purposes. It would seriously affect the religious feelings not only of the Muhammadans but also of the Hindus. I therefore submit that for the sake of revenue and for the paltry amount that it will fetch it is not desirable to wound the religious feelings of these two communities.

Rai Dr. HARIDHAN DUTT Bahadur: I am opposed to these amendments and my principal reason is that unless we insist upon the renewal of the license year after year, there will be a very great difficulty in stopping the sale of unadulterated foodstuffs in these markets. My friend Mr. Jatindra Nath Basu is quite right in pointing out that there are two important things to be looked into in connection with a market—the construction of the market and the keeping of the market in a clean condition. But he has ignored another important factor and that is this: that we should ensure the sale of unadulterated food in these markets. Those who have any connection with these private markets know that during the last 20 years the Corporation has been incessantly trying to ensure that, but they have not yet succeeded. It is mainly for the purpose of meeting this difficulty that the Corporation has started their own markets. Sir, cases have occurred in which shopkeepers have been convicted in the Municipal Magistrates' courts, again and again, for selling adulterated articles and when this has been brought to the notice of the owners of private markets they have taken no action. It is very desirable, therefore, that the Corporation should have a certain amount of hold upon the owners of private markets and this can only be done if the licenses are to be renewed year after year.

SECRETARY to GOVERNMENT, DEPARTMENT of LOCAL SELF-GOVERNMENT (Mr. S. W. Goode): As regards the amendment for the deletion of sub-section (*1*)(*a*), I would like to point out that it is very necessary that the Corporation should exercise control over these private markets and as Rai Dr. Haridhan Dutt Bahadur has pointed out, it is by periodical licensing that the Corporation will obtain the surest control. We think, however, that there is a good deal of force in Mr. Cohen's suggestion that it is undesirable to harass the owner of a market by requiring him to renew his license annually. We should be quite prepared to accept his amendment for the triennial licensing of markets, provided that the word "annual" is inserted in sub-section (*2*) before the word "fee," so that the annual fee might be levied from the owner of the market in spite of the fact that his license is renewed triennially.

Rai Dr. Haridhan Dutt Bahadur objects to the term of the license being extended over one year, but I think he forgets that under the Bill, as it stands, the Corporation will still have power to cancel or suspend a license and that will give them ample power to insist on the market being kept in proper order.

As regards the amendment of Maulvi Hamid-ud-din Khan, I would like to point out that proviso (*iii*) would cover, for instance, the case of the Jewish slaughter-house. That sub-clause refers to the flesh of the animals slaughtered in these institutions for sale. In these circumstances, I do not see any reason why an annual licensing fee should not

be levied, and there is certainly no reason, as Mr. Cohen will admit, why the Jewish community should not pay for their slaughter-house in the same way as any other community does. The result is that we accept the substitution of the word "triennial" and ask the House to add the word "annual" before the word "fee" in sub-clause (2).

I would also, with your permission, ask leave to move that in proviso (*iii*) the words "or in the provisions of section 388" might be omitted. In view of the decision of yesterday, it is no longer necessary to retain these words.

Mr. D. J. COHEN: I accept Mr. Goode's suggestion.

Babu SURENDRA NATH MALLIK: I fully accept the argument of my hon'ble friend Rai Dr. Haradhan Dutt Bahadur and I do not approve of the suggestion or the views that have been expressed by my hon'ble friend Mr. Goode, as regards the substitution of the word "annually" for the word "triennially."

I think one of the most difficult works that the Corporation has got to do is how to control the private markets. It is one thing to put an amendment here and quite another thing to go to these markets for yourself and see what these markets are like and what improvements are required in them and how difficult it is to bring about such improvements. My hon'ble friend, Mr. Jatindra Nath Basu, who is himself a very rich man, has had no opportunity of seeing these markets for himself as he has his marketing done by his servant and his supporter also does the same apparently. So they do not know what it is for the ordinary ratepayer to go to the market every morning where accommodation is so small that you can hardly move 30 feet within five minutes. I have seen that every day and the improvement of these markets is one of the most important works that the Corporation has got to do. So I cannot agree to accept the amendment either of my hon'ble friend, Mr. Goode, or my hon'ble friend, Babu Jatindra Nath Basu, whom I regard very much for his culture, but every motion of his, I must say, is of a retrograde—deliberately retrograde—character. How could he think of having the license renewed only after every five years I cannot conceive.

Mr. PRESIDENT (the Hon'ble Mr. H. E. A. Cotton): Mr. Mallik, he has asked leave to withdraw his amendment. He has not moved it.

Babu SURENDRA NATH MALLIK: It is better late than never, and it is never too late to learn. But what I wonder at is that he should have put this motion deliberately on the paper.

As regards Mr. Goode's amendment I would ask him to reconsider his position and would suggest whether the word "biennially" should not do for "triennially" or "annually." He ought to remember, once a market is started, it would almost be impossible for the Chairman to stop

it by simply serving a notice. The Chairman would be in an absolutely helpless condition. It will be impossible for him to do anything as the market is the only place where food-stuffs are sold for the whole locality. In such circumstances the Chairman cannot say that you must close the market to-morrow because it supplies adulterated food-stuffs. Is it possible for any Chairman to do it? I therefore think, on this particular point, we cannot be too strict. If the Government view is that the annual renewal of license would not work and may cause hardship to the market owners, then I would suggest that the licenses should at least be renewed for two years.

MINISTER in charge of DEPARTMENT of LOCAL SELF-GOVERNMENT (the Hon'ble Sir Surendra Nath Banerjea): I think we must stick to the Government view which has been expressed by Mr. Goode. The Corporation has got powers of controlling these markets by the authority which it possesses to cancel the licenses. That being so, it does not seem that the power of control is withdrawn or in any way minimized by the fact of the license being renewed triennially instead of annually. Government therefore adheres to the view which has been expressed by Mr. Goode.

Babu AMULYA DHONE ADDY: I beg to withdraw the motion which stands in my name in favour of Mr. Cohen's motion.

The motion was then, by leave of the Council, withdrawn.

The following amendment was then, by leave of the Council, withdrawn:—

Babu JATINDRA NATH BASU: "That in clause 391(*la*), line 1, for the word 'annually' the words 'every five years' be substituted."

The following motion, which was moved by Mr. S. W. Goode, was then put and agreed to:—

"That in clause 391(2), after the word 'such' the word 'annual' be inserted."

The motion that in line 1 of clause 391(*la*) for the word "annually" the word "triennially" be substituted was then put and a division taken with the following result:—

AYES.

Addy, Babu Amulya Dhone.
Ahmed, Maulvi Azaharuddin.
Ahmed, Maulvi Yakubuddin.
Ahmed, Mr. M.
Ahmed, Munshi Jafar.
Alay, Mr. S. Mahboob.
Azam, Khan Bahadur Khwaja Mohamed.
Banerjea, the Hon'ble Sir Surendra Nath.
Banerjea, Dr. Pramathanath.
Basu, Babu Jatindra Nath.
Bentley, Dr. C. A.
Birley, Mr. L.
Chaudhuri, Babu Kisheri Mohan.
Chaudhuri, the Hon'ble the Nawab Saiyid Nawab Ali, Khan Bahadur.
Cohen, Mr. D. J.
Das, Babu Shishmadev.
De, Mr. K. C.
De, Rai Bahadur Panindralal.
Deare, Major-General S. H.
Dey, Mr. G. G.
Donovan, Mr. J. T.

Emerson, Mr. T.
Goode, Mr. S. W.
Harnett, Mr. W. W.
Huntingford, Mr. G. T.
Karim, Maulvi Fazlal.
Khan, Maulvi Md. Rafique Uddin.
Makramali, Munshi.
Marr, Mr. A.
McAlpin, Mr. M. C.
Mukerjee, Mr. S. C.
Mukhopadhaya, Babu Sarat Chandra.
Mullick, Babu Nirode Behary.
Rahim, the Hon'ble Sir Abd-ur-.
Robertson, Mr. F. W.
Roy, Mr. G. N.
Roy, Mr. J. N.
Salam, Khan Bahadur Maulvi Abdus.
Sen, Babu Mani Lal.

NOES.

Ahmed, Khan Bahadur Maulvi Wasimuddin.
Dutt, Rai Bahadur Dr. Haridhan.
Mallik, Babu Surendra Nath.

The Ayes being 39 and the Noes 3, the motion was carried.

The following motion, which was moved by Mr. S. W. Goode, was then put and agreed to:—

"That in proviso (*iii*) of clause 391 the words 'or in the provisions of section 388' be omitted."

The motion standing in the name of Maulvi Hamid-ud-din Khan was then put and lost.

CLAUSE 392.

Dr. PRAMATHANATH BANERJEA: I move that in clause 392, line 5, for the word "shall" the word "may" be substituted.

This is a very simple amendment, and I need not say many words in commenting it to your acceptance. This clause 392 gives power to the Magistrate to close private markets. When a fine is imposed by a Magistrate under section 478 for keeping open a private market it is laid down in this section that the Magistrate shall, on the application of the Corporation, but not otherwise, direct that such market be closed and appoint persons, or take other steps, to prevent the place being used as a market. I want to make this a permissive provision and not a compulsory one. I suggest that the word "may" be substituted for the word "shall."

Babu AMULYA DHONE ADDY: I beg to support this amendment. The question is as to whether the Corporation or the Magistrate should be the supreme authority, and whether the Magistrate should be subordinate to the Corporation or not, as it appears that "the Magistrate shall, on the application of the Corporation, but not otherwise direct that such markets be closed." Therefore, it appears that if we do not substitute the word "may" for the word "shall" the Magistrate is bound to comply with the direction of the Corporation. Now, it would appear that when the owner of a market fails to comply with some of the conditions laid down by the Corporation then the Corporation may apply to the Magistrate to close the market and the Magistrate is bound to

close it. I beg to submit that it will be a capital punishment ever inflicted on the owner of a market for if it is due to the negligence on the part of a stall-keeper, and the owner of a market is unable to comply with all the conditions or any of the conditions of the license granted to him by the Corporation. It would be a great hardship to the owner of the market, if it is closed. Therefore, I suggest that entire discretion must be left to the Magistrate, who will decide each case on its own merits.

Babu SURENDRA NATH MALLIK: I think there is a lot of misapprehension in this matter. My friend, Mr. Addy, says that as the word "shall" is there, it makes the Magistrate subordinate to the Corporation's jurisdiction, but that is not so. Supposing my friend gets a decree under the law: it says that the court which passes a decree shall also execute the same if there is an application by the decree-holder. Where is the question of subordination then? If one has done something wrong then I get an order and the Corporation has a discretion. The clause lays down that the Magistrate "shall on the application of the Corporation, etc.," but my friend did not read the next few words—"but not otherwise," that is, on the application of the Corporation by way of execution of that decree. The court will then say—"Look here, you will have to close this." Why is this distrust then? Cannot the 90 Commissioners find out whether a market should be closed or whether they should ask the Magistrate to close a market? Why should not the Corporation be in the position of an ordinary decree-holder who asks the court to execute the decree? Why should you say the Court may or may not—it is not the present law. Why then is this retrograde idea? Can my friend with his 26 years' experience, of which he is justly proud, cite one single instance in which the Corporation asked the Magistrate to close a market improperly? Why then mistake the shadow for a ghost? It is in the present Act, and it is only for extreme cases that we keep that power in hand. We seldom use this power. Then where is the objection to retaining it?

The motion was then put and lost.

CLAUSE 394.

Dr. PRAMATHANATH BANERJEA: I move that to clause 394(*c*), the words "in the interests of sanitation and public health" be added at the end.

Clause 394, sub-clause (*c*), gives power to the Corporation to cause any shop, stall, shed or other structure in any such private market to be altered or improved in such manner as the Corporation may consider necessary. Now, what is the object for which this power is given to the Corporation? Evidently, the Corporation is to have this power in order that the interests of sanitation and public health may be safeguarded.

Now, in order to make this point clear, I want the addition of the words "in the interests of sanitation and public health," so that the Corporation may not be able to cause alteration of structures for any other purpose.

Babu SURENDRA NATH MALLIK: My friend chooses to forget that the Corporation has got no other interest in a private market—except that of sanitation, it has no other interest. He forgets to draw a distinction between a private market and a municipal market. As regards municipal markets, we are constructing them according to our own taste and according to our building regulations. But in the case of private markets, it is in the interest of sanitation and good food supply that we want this power. If these words are to be added, then why single out this clause? Why not insert these words in all the clauses? There is no necessity for the addition of these words; they are perfectly unnecessary.

The motion was then put and lost.

CLAUSE 395.

Babu AMULYA DHONE ADDY: I move that in clause 395(*1*), lines 3, 4, 7, 9, 16 and 19, the words "or bazar" be omitted.

It will appear from the definition of "bazar" that it is a place where there is a collection of shops or warehouses. These shops or warehouses may or may not belong to a single person—they may belong to several persons. Now, Sir, under clause 395, "the Corporation may require the owners of a bazar to lay out, construct or alter such approaches, roads and passages to or in such bazar." I beg to submit that, that is primarily the duty of the Corporation. If there is a number of shops or warehouses belonging to several persons, and if the Corporation is of opinion that a road should pass through or along the shops or warehouses, then that should be done by the Corporation and not by the owners of these warehouses. By the payment of rates to the Corporation, I may be allowed to say that their responsibility is discharged. Further, Sir, I do not find any such provision in the Bombay Municipal Act.

Babu SURENDRA NATH MALLIK: I am sorry that I have got to oppose this motion. Nobody knows better than my friend that this should be opposed in the interest of the Corporation. I thought that he would not press for it though he had sent it in. But as he seems to press it, I have to say a few unpleasant facts for which I hope he will pardon me. Now my friend is anxious to take away the word "bazar" from this clause. You will pardon me I do not mean anything personal. The worst bazar in Calcutta is the Chetla bazar. I can invite some five or six of my hon'ble friends here to visit that place and come back, if you postpone the discussion for an hour or so, and let them say if there is any other wretched bazar than the Chetla *hât* in the whole of this town.

Babu AMULYA DHONE ADDY: May I rise to a point of order?

Mr. PRESIDENT: There cannot be a point of order.

Babu SURENDRA NATH MALLIK: I submit that if there is any place regarding which action should be taken, it is markets of this sort. At the present moment the pathways in this bazar are in some places three feet only and in some places even less than that, and the eaves in some places touch your head. These are the things we want to improve. This *hat* has not been improved for the last 20 years. Anybody going there will feel how a bazar like that has been allowed to continue. The only question is whether we shall have the power as contemplated in this clause. This particular section has been existing for so many years in the present Act. Where is the necessity for going backward. Why this retrograde idea again for excluding bazars? We want to improve all these defects, and if you exclude bazars, these things will continue.

Babu AMULYA DHONE ADDY: May I rise to a point of personal explanation? Mr. Mallik has referred to the Chetla bazar. It is not a bazar under the definition, because under the

Mr. PRESIDENT: I do not quite follow you. How does this matter arise? Surely, you are not the owner of this Chetla bazar to which Mr. Mallik refers?

Babu AMULYA DHONE ADDY: I am the owner of the Chetla bazar. Now, a bazar is a place where there is a collection of shops and warehouses.

Mr. PRESIDENT: That is quite sufficient.

Babu AMULYA DHONE ADDY: It is only a few years ago that the whole of this bazar was thoroughly reconstructed with the previous permission of the Chairman and in accordance with the rules.

Babu SURENDRA NATH MALLIK: Question, question!

The motion was then put and lost.

CLAUSE 397.

Mr. D. J. COHEN: I move that in line 4 of clause 397 (2), the words "and specified in this behalf" be inserted after the word "and" figures "section 468."

Mr. S. W. GOODE: I may say at once that we are prepared to accept this amendment with the addition of the words "by the Corporation" after the word "specified."

The amended motion was then put and agreed to.

Rai FANINDRALAL DE Bahadur: I move that clause 397 (3) be omitted.

The sub-clause under consideration is certainly redundant, when the various forms of control to be exercised by the Corporation over the private markets are taken into account. The provisions and procedure suggested here are also too hard. When the Corporation suspects that the owner or the lessee is acting in collusion with a tenant, convicted under section 468, to avoid the regulation made under the Act, the proper course would be to decide a line of action only after giving the party, an opportunity of being heard and not to take summary measures. But the best thing, I believe, will be to delete the sub-clause altogether, the power already vested in the Corporation is quite sufficient to cope with such situations, if they arise.

Babu JATINDRA NATH BASU: I support the amendment. Clause 397 gives the Corporation the power to expel from a market any person whom they consider to be undesirable, or any person who or whose servant has been convicted of contravening any by-law laid down by the Corporation in respect of the market. But sub-clause (5) goes further. It says that the Corporation will have the power not only to remove the guilty person but such other person whom the Corporation thinks to be in collusion with the guilty person. The Corporation, under this clause, is given the summary power to come to a judicial decision as to who are the persons who are in collusion with the guilty person That is a power which ought not to be given to the Corporation because in a case like this the power will really be exercised by the subordinate employees of the Corporation, and if a subordinate employee happens to be an enemy of the owner or lessee of a market, then he might go and report to his superior officers against him and on that report this man might be expelled. This is an extraordinary power which should not be given to the Corporation.

Rai Dr. HARIDHAN DUTT Bahadur: This discussion regarding the motion of Rai Fanindralal De Bahadur makes it clear why the owners of private markets are anxious that the license should be for a fixed period. Only a few minutes ago there was a discussion on an analogous question, and it was clear to the House that the friends of private owners were particularly anxious that this weapon of license should not fall upon them at the end of every year, but at least there must be three years' interval. It is clear from the speeches of my friends why they are particularly anxious that the Corporation should not be given this power. I point this out to show that the annual renewal of licenses would have been the wiser of the two courses. My friends ought to remember that this power would be left to the Corporation consisting of 90 wise men of the city of Calcutta, and if they cannot accept the decision of 90 representative citizens, I do not know whether that would be showing due respect to that body.

Rai FANINDRALAL DE Bahadur: May I rise to a point of personal explanation? I am not an owner of any market or bazar in Calcutta.

Mr. D. J. COHEN: I rise to oppose this motion and for this reason that I am afraid that the effect of sub-clause (2) will go. That will be rendered infructuous. I want to say just one word with reference to the remarks made by Dr. Dutt. He has imputed motives to members who moved that licenses should be taken triennially. I am sorry that he should have done so. I explained clearly at the time that my only intention was that where an owner had carried out the requisitions of the Health Officer, he ought not to be asked to take out the license annually but triennially. I think I made that sufficiently clear at the time.

Babu SURENDRA NATH MALLIK: I do not understand why this motion has been put in by Rai Fanindralal De Bahadur and Babu Jatindra Nath Basu. This shows that they did not care to go into the working conditions of these places. The working conditions have necessitated this and a clause of this description ought to be there as a check. My friends have proceeded on a wrong idea that this power will be given to some subordinates of the Corporation. My friend, Dr Haridhan Dutt, has said that the Corporation consists of 90 members: 90 or 50 that does not matter, but we have got a Market Committee—a small working committee of 10 or 12 gentlemen presided over by a Commissioner. They consider all these matters before any steps are taken in any direction. Where is then the argument to say that this power will be exercised by merely a subordinate or a Market Inspector or the like. The members of the Committee personally visit the markets and the Committee meet in the very market itself, and they generally give a hearing to all persons concerned. The section says—"if they think fit, they may cancel the license of such owner, etc., etc." After this, is there any necessity for this motion? Will my friends reconsider the position and withdraw the motion?

The motion was put and lost.

CLAUSE 398.

Babu AMULYA DHONE ADDY: I beg to move that clause 398 be omitted.

Under this clause the Corporation may open depôts or shops for the sale of food-stuffs, fuel, cloth, etc. There is no such provision in the existing Act. It would be an undue interference with private trade. I admit that the primary object is to reduce the price of food-stuffs and other necessaries of life in Calcutta from time to time. But I beg to submit that that is not the proper remedy. Take the case of coke: The price went up a few months ago and it was prohibitive, but what was the reason for the high price of coke? It was the non-supply of wagons by the Railway authorities. In the case of cloth, a few years ago, the

price became prohibitive, and what was the reason? Because owing to the outbreak of war there was no supply of foreign cloth, and the mill owners in the Bombay presidency took undue advantage of it by increasing their prices. Then, Sir, the best remedy would be in the case of cloth to abolish the excise duty thereon.

Mr. PRESIDENT: We are not going into the question of excise duty on cloth: it does not arise. That should be reserved for the Legislative Assembly.

Babu AMULYA DHONE ADDY: I am not going to propose that. I beg to submit that the remedy which has been suggested in the Bill is not the proper one. The proper remedy is to submit a recommendation to the Government of India for abolishing the excise duty on cloth and for increasing the supply of wagons for the transit of coke from the collieries to Calcutta and for restricting the export of food-grains to foreign countries by levying a duty. At the present there is a duty of three annas per maund on the export of rice. It is quite insufficient, but there is no such duty on the export of wheat or other food-grains and other necessaries of life. Therefore, I beg to submit that it is a question of demand and supply. An artificial control will not suffice: on the contrary, it will lead to corruption. When the price of Indian rice went up during the last famine and when there was a bumper rice-crop in Burma, a Director of Supplies was appointed by the Government of India to control the price of Burma rice in Bengal, especially in Calcutta. What was the result? He could not reduce the price: on the contrary, this artificial control led to corruption. It may be said that there are certain safeguards in this clause—that when an emergency will arise, the Corporation may open shops for the sale of food-grains and other things with the previous sanction of the local Government. But I must say the Corporation may be overzealous, every opportunity may be taken by the Corporation, and a representation may be made to the Government showing the emergency.

Take the case of markets. What is the object of the establishment of municipal markets in Calcutta? It is certainly to control the price of fish and vegetables. Has the Corporation been able to do so? Just the contrary. The Corporation has been realizing heavy rents from the stall-keepers and they have been charging prohibitive *salamis* on them, and that is the reason why stall-keepers have been obliged to charge heavy prices for the sale of fish, vegetables and food-grains. Not only that, though under the definition a market is a place for the sale of fish and vegetables, the Corporation acquires ancestral houses—for what? Not for the sale of vegetables but for the sale of fancy goods and even shoes.

Babu SURENDRA NATH MALLIK: May I rise to a point of order? Are these remarks at all relevant?

Mr. PRESIDENT: I was hoping that you would come to the point You must really come to the point. I am afraid my patience is getting exhausted.

Babu AMULYA DHONE ADDY: I beg to submit that the question is one of demand and supply. I am strongly opposed to artificial control and it will be an undue interference with private rights and private trade if the Corporation is authorized to open shops in Calcutta for the sale of food-grains and other necessaries of life as stated in the Bill.

Rai Dr. HARIDHAN DUTT Bahadur: I would not like to be a silent voter on this occasion. My friend has surprised me very much—more so because I know how intimately he is connected with the Corporation and with all its noble work. I am extremely surprised to hear from a gentleman of his position that he is opposed to the insertion of this clause. During the last three or four years the Corporation may well be proud of the very noble work that it has done in providing shops for the purpose of bringing down the price of the necessaries of life. The Corporation had to do so in spite of the fact that there was no provision in the law. The members of the General Committee in doing this took a great risk upon themselves—the risk of a charge by the public or a case in the High Court; but eventually it was found that they did the work to the satisfaction of everybody concerned. There was a time when there was a cry that steps should be taken to bring down the price of rice. Now, what did the Corporation do in this matter? Although they had not the legal power, they opened shops and that wonderfully brought down the price. Then, take the case of kerosene oil. They opened depôts, although they had no power, and thereby enabled the poor people to buy kerosene at a cheap rate. Then I come to the question of coal. My friend has spoken about the high price of coal. As soon as the Corporation opened coal depôts, the price of coal was wonderfully controlled. From Rs. 1-12-0 a maund it came down to Re. 1. This is social service of the noblest kind. The Corporation had not the legal right then, and this clause will give them that right and power. It has surprised me most that of all persons my friend here should come and object to this.

Babu SURENDRA NATH MALLIK: I share with my hon'ble friend, Rai Dr. Haridhan Dutt Bahadur, the surprise which has been caused by our friend Babu Amulya Dhone Addy taking up this matter in this way. I know his views all along; he chooses to forget that we, in the Corporation, do not want to interfere with ordinary trade. What we want is a power to be used in very emergent circumstances and that again under the control of Government for the purpose of opening shops for certain articles, which it is so necessary for us to open on some occasions and about which some experiments done in the past have shown that we would have failed in our duty if we did not. My

friend, Rai Dr. Haridhan Dutt Bahadur, told you of the rice, coal, and mustard oil shops. No doubt they did immense good, but we had to close them as we had not the power to keep such shops. In any case we would have closed them. What did my friend say about the mustard oil? Every body in Calcutta will remember that three years ago there existed the pernicious system of mixing pukra seed with mustard oil. The result of this was that there was an outbreak of dangerous diseases in a large number of houses. We insisted upon opening some shops in all the markets to sell unadulterated guaranteed mustard oil at 12 annas a seer, whereas the mixed oil was being sold at 13 or 14 annas a seer, with the result that the shops which sold mixed oil soon stopped this trade and gradually the supply of mustard oil became all that was desirable. Now, if we do this again, does it lie with any commissioner, who had been in the Corporation for the last 25 years, to say that we should not take this power on this behalf or for using the same thing against emergent circumstances when the most disgusting profiteering prevails? Now, take the case of rice. We began to sell rice at Rs. 6-8-0 a maund in our shops when it was being sold in the markets for Rs. 11 a maund and the poor people were dying of hunger. If we did that, did we do anything for which we ought to be ashamed? Was it not an achievement for which we ought to be proud? In all cases of disgusting profiteering we are bound to interfere in the interests of the poorest people.

With regard to coal, kerosene oil, and other necessaries of life, for instance, flour, which is mixed with dust and stone and many other things, the names of which are known to my friend, we want to stop all profiteering and the only way to do it is to open some shops in our own markets as well as in other private markets under persuasion. When these shops are opened we give a guarantee of supplying pure articles at market price. Is anything more necessary for us than to open shops of this description? I should say no. I therefore think that my friend is pressing his amendment for no reason whatsoever.

The Hon'ble Sir SURENDRA NATH BANERJEA: I just want to say a word or two on behalf of Government with reference to this amendment. I share the surprise which has been expressed by my friend to the left and by Rai Dr. Haridhan Dutt Bahadur regarding the amendment which has been introduced by so experienced a member of the Corporation as Babu Amulya Dhone Addy. Indeed, this provision is a departure from the existing law, but it was necessary in consequence of the development of events due to the nefarious practice of profiteering, and the object of this section is to put a stop to profiteering in the interests of the poor. Look for a moment at the safeguards which are provided. In the first place, discretion is vested in the Corporation. Babu Amulya Dhone Addy will be one of those who will decide as to

whether shops are to be opened or not. In the second place it is restricted to the necessaries of life for the benefit of the poor. In the third place, there must be the sanction of Government; and in the fourth place the power is to be used only on emergent occasions. It seems to me absurd, having regard to all these safeguards, to think of any abuse of this power to the detriment of the interest of the rate-payers. I hope, therefore, that my friend, after this explanation, will withdraw his amendment and will not allow our time to be wasted by asking for a division.

Babu AMULYA DHONE ADDY: I beg to withdraw my amendment

The motion was then, by leave of the Council, withdrawn.

CLAUSE 402.

The following amendments were then, by leave of the Council, withdrawn:—

Babu JATINDRA NATH BASU and Rai FANINDRALAL DE Bahadur "that in clause 402(*1*)

(*1*) in line 2, the words 'in any shop or place in which milk is stored or';

(*2*) in line 3, the words 'shop or place', and

(*3*) in sub-clause (2), line 2, the words 'shop or place' be omitted."

Mr. D. J. COHEN: "That the words 'or stored' in line 7 of clause 402(*1*) be omitted."

CLAUSE 406

The following amendment was, by leave of the Council, withdrawn:

Mr. D. J. COHEN: "That clause 406 be omitted."

CLAUSE 409

Mr. D. J. COHEN: I move that the words "or hawked about" in line 5 of clause 409 be omitted

These words are clearly out of place inasmuch as the clause relates to the inspection of the place and nothing more.

Mr. S. W. GOODE: We accept the amendment

The motion was put and agreed to.

CLAUSE 411.

The following amendment was, by leave of the Council, withdrawn:—

Babu AMULYA DHONE ADDY: "That in clause 411(*1*), lines 2 and 3, for the words 'at any time by day or by night' the words 'at all reasonable times' be substituted."

The following amendment standing in the name of Shah Syed Emdadul Haq was, in the absence of the member, deemed to be withdrawn:—

"That in clause 411(*1*), line 3, before the words 'by night' the word 'occasionally' be inserted."

The following amendment was, by leave of the Council, withdrawn:—

Babu AMULYA DHONE ADDY: "That in clause 411(*2*), line 11, the words 'and carry away' be omitted."

CLAUSE 412.

The following amendment was, by leave of the Council, withdrawn:—

Babu AMULYA DHONE ADDY and SHAH SYED EMDADUL HAQ: "That clause 412(*2*) be omitted."

CLAUSE 413.

Mr. D. J. COHEN: I move that clause 413(2)(*a*) be omitted.

May I move my next two amendments now?

Mr. PRESIDENT: Yes.

Mr. D. J. COHEN: I beg to move—

(*i*) that in clause 413(2)(*b*), line 1, the words "by the Corporation" be inserted after the word "destroyed."

(*ii*) that at the end of the clause 413(2)(*b*) the following be added, namely,—

"or to be otherwise disposed of by the Corporation so as not to be capable of being used as human food or medicine."

The idea being that there is no occasion to have these things, which are not required, forfeited to the Corporation. I have taken the words that are in my amendment No. 594 from clause 418.

Mr. S. W. COODE: We woubl substantially accept Mr. Cohen's amendment. I would propose with him to delete sub-clause (*a*) and the letter (*b*) before the words "to be destroyed" and at the end I propose to add the words in Mr. Cohen's last amendment.

Mr. D. J. COHEN: I accept.

The following motion, as amended, was then put and agreed to:—

That sub-clause (*2*) (*a*) down to the letter (*b*) be omitted and that at the end of clause 413 (*2*) the following words be added, namely,—

"or to be otherwise disposed of by the Corporation so as not to be capable of being used as human food or medicine."

The motion that in clause 413 (2) (b), line 1, the words "by the Corporation" be inserted after the word "destroyed" was then, by leave of the Council, withdrawn.

Babu Amulya Dhone Addy, with the leave of the Council, withdrew the following amendment, viz:—

"That clause 413(2)(b) be omitted.

CLAUSE 414.

The Hon'ble Sir SURENDRA NATH BANERJEA: I move that clause 414 (2) be omitted.

It is merely a formal thing and I hope the House will agree.

The motion was put and agreed to.

NEW CLAUSE 418A.

The following amendment standing in the name of Rai Mahendra Chandra Mitra Bahadur was, in the absence of the member, deemed to be withdrawn:—

"That after clause 418, the following be inserted, namely,—

Appeal.

'418A. An appeal against the decision of the Health Officer shall lie to a Bench consisting of three Councillors or Aldermen who may be elected by the Corporation for that special purpose.'"

Babu AMULYA DHONE ADDY: I move that after clause 418 the following new clause be inserted, namely,—

Appeal.

"418A.—An appeal shall lie against the orders of the Health Officer passed under this chapter to a Bench consisting of three Councillors or Aldermen elected by the Corporation for the purpose."

It is a question of principle as to whether the Corporation of Calcutta should be the supreme authority or not. Under the existing Act there are three municipal authorities, I mean, the Corporation, the General Committee and the Chairman. Certain powers have been entrusted to the Chairman and it will appear from the corresponding sections of this Chapter that these powers under the existing Act have been entrusted to the Chairman and the Chairman can certainly delegate his powers to the Health Officer or any other officer of the Corporation. But in this Bill you will find that certain powers have been delegated to the Health Officer and not to the Executive Officer of the Corporation. The Health Officer has also been authorized to delegate his powers to his subordinates. I admit that the powers which have been entrusted to the Health Officer are not very important, but as a question of principle, the Corporation should be the supreme authority and not the Health Officer. It may be said that

the services of the Health Officer may be dispensed with by the Corporation if they are not satisfied with his work, but that is no reason why the Corporation shall have no control over the work of the Health Officer.

Babu SURENDRA NATH MALLIK: I am perfectly surprised to hear that there can be any situation in which the Corporation should have no control over its own Health Officer. If my friend, after 25 years' experience of the Corporation, has come to know that the Corporation has no control over its officers I should say that he has simply wasted his time there.

As regards an appeal, I do not understand how there can be an appeal. If a person sells rotten fish in a market and the inspector goes and finds that the fish is rotten, he will have to wait for the orders of the Health Officer to destroy it. In the meantime the rotten fish will lie, a process has to be served, some men have got to come and an agenda has to be prepared and then there will be a formal order for the destruction of the rotten fish. To do all this for a simple work of this character is absurd I hope he will not go on making suggestions like this which the Government cannot accept.

The Hon'ble Sir SURENDRA NATH BANERJEA: I associate myself with the observations which have been made by Mr. Mallik. I just want to add one point, namely, that a bench would be of no use because the point of inquiry might involve technical matters in regard to which a bench would know little or nothing. My friend seems to have a sort of love for these benches. We remember his amendment regarding the formation of benches for hearing appeals, and now we have the same thing disguised in another form. I trust that after the explanation which I have given, the hon'ble member will withdraw his amendment.

The motion was then, by leave of the Council, withdrawn.

CLAUSES 185 AND 427

Mr. PRESIDENT: I have to announce that His Excellency the Governor-General has refused to give sanction to the consideration in this Council of amendment No. 342 of which Babu Amulya Dhone Addy gave notice regarding the imposition of the jute tax.

I have disallowed amendment No. 598. We now come to amendment No. 599.

NEW CLAUSE 427A.

Babu AMULYA DHONE ADDY: I move that after clause 427 the following new clause be inserted, namely,—

Appeal.

"427A. An appeal shall lie against the decision of the Health Officer to a Bench consisting of three Councillors or Aldermen elected by the Corporation for the purpose."

In the case of amendment No. 597, I stated that the duties which were to be entrusted to the Health Officer were not very important. So I withdrew my amendment No. 597. This amendment, as also the previous one, involves a question of principle, and that is why I move this. It is a question of principle as to whether the Health Officer or the Corporation should be the supreme authority. You will find from this chapter that very important duties have been entrusted to the Health Officer. Under clause 424, the Health Officer may inspect dairies and prohibit the supply of milk for human consumption from such dairies. Under clause 425, power to seize and send milk cattle to the Veterinary Hospital for treatment, etc., is vested in him. These powers are certainly very important and there should be an authority to whom a person aggrieved may submit an appeal against the decision of the Health Officer.

Babu SURENDRA NATH MAILLK: For the same reason I am bound to oppose it. I do not think I should take up the time of this Council by saying anything further than that it is an impracticable and impossible proposition. We cannot agree to it.

The motion was then put and lost.

CLAUSE 429.

The following amendment was, by leave of the Council, withdrawn:—

"That in clause 429, line 3, the words 'without notice, or' be omitted."

CLAUSE 431.

Mr. PRESIDENT: Raja Sahib, in regard to your amendment No. 603, Government have submitted a certain form of words which, perhaps, will meet your wishes. You simply move your amendment.

Raja RESHEE CASE LAW: I beg to move that after clause 431 *(1)* the following be inserted, namely,—

"Provided also that all costs incurred for the removal and in the treatment of any such patient shall be borne by the Corporation."

Mr. S. W. CODDE: Government would accept the principle of this amendment, but there may be certain cases where it will be difficult for the Corporation to pay the cost incurred, for example, in the removal of a patient. In the case of a wealthy patient, whom it is desired to segregate, it might very well happen that his friends might wish to make their own arrangements for his removal. In such a case, the Corporation cannot compel him to accept the cost incurred in his removal. We will accept the principle, however, that when a person is segregated in the public interest the cost incurred should ordinarily be borne by the Corporation. I would ask the Raja Sahib whether he would be prepared to accept this amendment with the substitution of the word "may" for

"shall" and also the drafting change that this amendment shall be placed before the existing proviso and that after the word "provided" in line 12 of this section we should add the word "also."

Raja RESHEE CASE LAW: I accept the suggested amendment.

The following amendment was then put and agreed to:—

"That in clause 431(*1*), after the word 'place' the following words be inserted, namely,—

'Provided that all costs incurred for the removal and in the treatment of any such patient may be borne by the Corporation,' and further after the word 'provided' in line 12, the word 'also' be inserted."

CLAUSE 433.

Babu AMULYA DHONE ADDY: I move that in clause 433(*2*), line 2, the word "substantial" be omitted.

Under this clause if the Health Officer is of opinion that the destruction of any hut is necessary to prevent the spread of any dangerous disease, he may take measures for having such a hut destroyed. Under sub-clause (*2*), compensation shall be paid by the Corporation to any person who sustains substantial damage by the destruction of such hut. What I object to is the word "substantial." If a hut is destroyed for the prevention of the spread of any infectious disease, the owner of such a hut (who may be a very poor man) would not be entitled to get any compensation for its destruction unless the damage be a substantial one. I fail to understand why he should not be entitled to any compensation for the destruction of a hut unless the loss is a substantial one. Is it because he is a poor man? In the case of masonry building, if the Corporation insists on its removal for any purpose, the owner is entitled to full compensation. Why make this invidious distinction between a poor man who happens to own a hut, and a rich man who owns a masonry building? The word "substantial" is a vague term. Who will find out whether the damage is substantial or not. The Health Officer or his subordinate will decide whether the damage is substantial. I know of cases in which no compensation was paid to poor men for the destruction of their huts simply on the ground that the damage was not substantial. I therefore appeal on behalf of the poor to grant compensation for the destruction of their huts, however trifling the amount may be.

Dr. PRAMATHANATH BANERJEA: I support the amendment.

Raja RESHEE CASE LAW: I move that in clause 433 (*2*) lines 3, 4, 5 and 6, the words "but except as so allowed by the Corporation no claim for compensation shall lie for any loss or damage caused by any exercise of the power conferred by sub-section (*1*)" be omitted.

My reason for this amendment is that the powers of the Corporation should never be made so arbitrary as to interfere with the common-law rights of the people. Why should a man be deprived of any remedy for damages if he be not satisfied with the award of the Corporation?

SHAH SYED EMDADUL HAQ spoke in Bengali in support of the motion.

Rai Dr. HARIDHAN DUTT Bahadur: I lend my humble support to my friend, Babu Amulya Dhone Addy, in his amendment No. 604. I think that it is only proper that we should take into consideration the points which he has so forcibly pointed out. When an epidemic breaks out and when it is ordered that huts should be destroyed the owners of these huts will have to undergo some loss and that for no particular fault of theirs. The Health Officer goes and finds that the destruction of hut is necessary. It may be a small bit of the hut or the entire hut has to be destroyed. Although it might not be considered by the Health Officer to be a substantial loss, all the same the poor man has to undergo some loss. My sympathies are for the amendment of Babu Amulya Dhone Addy which aims at giving redress to the poor, and I therefore think that the word "substantial" should altogether be done away with. Whatever loss a man may be put to, let us compensate him for the same.

Rai JOGENDRA CHUNDER GHOSE Bahadur: The amendment of Babu Amulya Dhone Addy seems to me to be in consonance with all the principles of social law. It may be said that a community may be indemnified against the danger from a person suffering from an epidemic disease. An epidemic is a misfortune and if a community wishes to safeguard itself as against any person of the same community, I think that the community should pay for it. Therefore, in all justice, however slight the loss may be, if you destroy a person's household or homestead, you shall pay him some compensation for it.

Babu SURENDRA NATH MALLIK: I must confess that there is a considerable amount of force in my friend, Babu Amulya Dhone Addy's amendment, and I, on behalf of the Corporation, welcome it most heartily. Though the word "substantial" occurs in the present law, it does not matter. No doubt Babu Amulya Dhone Addy's amendment is an improvement and I welcome it.

Mr. PRESIDENT: What about the amendment which has been moved by Raja Sahib?

Babu SURENDRA NATH MALLIK: Government is going to accept it in a modified form.

Mr. S. W. COODE: In a former clause of this Bill it has been provided that compensation amounting to the value of the hut, less the value of the materials thereof, should be awarded when huts are demolished.

I think that that might be a reasonable compromise in the present case. Government would be prepared to move that the clause be amended as follows:—

"Compensation shall be paid not exceeding the value of the hut, less the value of the materials thereof."

Mr. Tindall has pointed out——

Mr. PRESIDENT: He does not exist.

Mr. S. W. CODE: It has been pointed out by a friend of mine—it is one of the travesties of hasty legislation—that it will be improper to insert the words "value of the hut less the value of the materials thereof" because *ex-hypothesi* the materials would have been destroyed. We would, therefore, accept the amendment in this form—"Compensation not exceeding the value of the hut shall be paid by the Corporation to any person who sustains loss," omitting the word "substantial." I understand that Babu Amulya Dhone Addy will accept this suggestion.

As regards the Raja Sahib's amendment I would point out that it would be unwise to omit the last words of sub-section (2), because vexatious claims may be made. A person may claim damages for loss of property, he may claim damages for inconvenience and so on, but in such matters, where some inconvenience is incidental to epidemic, he might be asked to endure in the public interest. I would therefore prefer to keep the last words of sub-clause (2) as they are.

The motion moved by Raja Reshee Case Law was then, by leave of the Council, withdrawn

The following modified amendment was then put and agreed to:—

"That in sub-clause (2), clause 433, line 1, after the word 'compensation' the following be added, namely, 'not exceeding the value of the hut' and further that the word 'substantial' after the word 'sustains' in line 2 be omitted."

NEW CLAUSE 440A.

The following motion was, by leave of the Council, withdrawn:—

"That after clause 440 the following be inserted, namely,—

Health Officer to be under the control of the Corporation.

'440A. The Health Officer shall in the exercise of his powers under this Chapter, be subject to the control of the Corporation.'"

CLAUSE 448.

Rai Dr. HARIDHAN DUTT Bahadur: I move that in clause 448, lines 9, 10 and 11, for the words "or by a medical practitioner holding

a professional license from the Corporation," the words "or by a registered medical practitioner" be substituted.

I may point out that in the Bill, as originally drafted, there was a provision for death certificates from qualified medical practitioners. When the original draft Bill came before the Select Committee, my friend, Mr. Mallik—I hope I am not betraying any of the secrets of the Select Committee, but it is known to everyone of us—in his anxiety to befriend the poor, who are not ordinarily able to call in qualified medical practitioners, inserted a clause which eventually will not serve his purpose. I want my friend to remember that at the present moment the poor people have no complaint about any difficulty on account of their not being treated by qualified medical men. I may explain the position, and it is that when anybody dies and his dead body is taken to the cremation or burial ground, the men carrying the dead body have to satisfy the authorities of the cremation ground or burial ground that it has been a case of natural death. If once that satisfaction is given, then there is no insistence on any medical certificate. My friend, Mr. Mallik, will challenge me if I am wrong. At the present moment, if a medical man happens to treat any patient and it, unfortunately, the patient dies, the medical man is not asked to give a certificate. All that is necessary is that the dead body has to be carried to the cremation or burial ground, and the proper address and the name of the medical practitioner have to be given. If the Registrar or the Sub-Registrar of the burial ground or of the cremation ground gets these particulars and is satisfied, he allows the body to be disposed of. So there is no question of any expense or medical certificate at the present moment. In the Bill, as originally drafted, it was provided that in all cases there should be a medical certificate, and that the certificate of a qualified medical man must be accepted by the Registrar; but in cases where a qualified man is not forthcoming, the Registrar or the man in charge of the burial ground will inquire into the case, and as soon as he is satisfied that the case is one of natural death, then he will write the certificate and allow the disposal of the body. The Corporation has already appointed properly qualified Registrars for places where dead bodies are disposed of and they are, almost in all cases that I know of, medical men having registrable qualification. So, in the case of a poor man, he is not asked to bring a medical certificate. All that he has to do, is to satisfy the Registrar that the case is one of natural death and has to give his proper address. My friend, Mr. Mallik, in his anxiety to help the poor, has provided that the certificate might come from anybody who is licensed as a medical practitioner under the Municipal Act, which means anybody who practises Ayurvedy, Hakimi or Homeopathy. I have no apathy against any of these people; but what I want to point out is that any person who practises medicine and pays a license fee of Rs. 12 to the Corporation will be included in the category of medical

practitioner. I ask my friends to consider whether it is proer or wise to leave such a very serious thing as a death certificate in the hands of men, some of whom cannot, at any rate, be trusted or relied upon. Then, from my own personal experience, I know of cases in which dead bodies of suicidal and homicidal persons have been surreptitiously disposed of in the Nimtola burning ghat. It is known to everyone of us that such cases do occur. So I ask my friend seriously to consider the necessity of not intercepting such dead bodies while being disposed of. Well, Sir, the only effective step that I know of is that before the dead bodies are disposed of by cremation or burial there should be an examination by a responsible person. If you know any professional licensee of the Corporation to write the final death certificate, then let us bid goodbye to all preventive measures regarding this matter. That is my reason for bringing in this amendment. I do not stand here as representing the medical profession and I am not at all anxious to safeguard the interests of qualified medical practitioners, and they are not anxious to earn their living by writing out death certificates. So you need have no suspicion on that score. Once more I desire to point out that we should try, as far as possible, to prevent crime and for that it is very necessary that there should be some sort of check on the surreptitious disposal of dead bodies: This can only be done by an examination of the dead body before it is disposed of. That is the reason why, I think, we should go back to the original draft and should not accept the Select Committee's suggestion.

Babu SURENDRA NATH MALLIK: I am very sorry to oppose this amendment of Rai Dr. Haridhan Dutt Bahadur, and more particularly so, as I do believe that there are very few amongst us who have given their services more disinterestedly to the cause of the city than my friend has done. But the point of view from which I beg to oppose this motion—or rather to explain the situation—will, I am sure, be appreciated by him. The question that we discussed in the Select Committee was whether we should have the words "medical officer." That was not a satisfactory expression. Therefore, we thought that it should be improved. "Medical officer" may mean a medical man in the service of Government. Whatever might have been its meaning, we wanted to improve it. Then the question arose how it could be improved. The suggestion was made that the certificate should be from a registered medical practitioner. The difficulty we found was that a registered medical practitioner would mean only Allopaths, because any medical man who does not practise in Allopathy is not allowed to get himself registered under the law—the medical Registration Act. If, therefore, we accepted that phraseology, the natural result would have been to exclude the Kavirajes, the Hakims, and even the Homeopathic practitoners; for instance, a certificate from Dr. Yunnan could not be accepted, or a certificate from a Hakim or Kaviraj practising in Calcutta could not be accepted, because they were not registered under the Act as medical

practitioners. There are still many families amongst Hindus who prefer the Kaviraji system; and similarly, there are many families amongst the Muhammadans who still stick to the Hakimi treatment. There are some people who still believe in charms and faith-cures. These modes of treatment being still recognized amongst a very large section of the Indian community, we would have, by introducing a phraseology like that suggested by my friend, Dr. Dutt, excluded the whole lot of the Vaids, Hakims and Homeopaths who do really a good deal of service and look after a lot of people in Calcutta. If my friend could possibly remove that difficulty, viz., that these practitioners would not be excluded, then I would have no objection to accept his suggestion i.e., the substitution of the words "or by a registered medical practitioner" for the wording of the Bill. I know, Sir, that certificates are not always wanted and I know also that the certificate given by the Registrar at the burning or cremation ground is good enough and we do not want any other certificate. But when a certificate is required, to insist upon a certificate from a registered medical practitioner will be to shut out a lot of people and will create difficulty to a very large section of the community who still observe the different systems of Ayurvedi, Hakimi, and Homeopathy

There is another difficulty and that is that if we put in the words "or by a medical practitioner holding a professional license from the Corporation," we can cast the net as wide as possible and include all the different practitioners, I have mentioned above, and any other practitioners such as Electro-homeopaths That is the reason why we put in this expression. No doubt, it may be argued that many of these people are not qualified men; but, Sir, the position is that many of our people cannot always afford to employ qualified men. Some of them can only employ people of the compounder class to treat their kith and kin. Therefore, in order to provide for all contingencies and for all classes of people having different opinions and having different kinds of treatment, we thought that our suggestion would be the best solution of the difficulty, viz., "holding a professional license from the Corporation" i.e., they are respectable people who carry on their profession in any system in the town of Calcutta.

Mr. S. W. COODE: With your permission, Sir, I would ask that this clause do stand over till to-morrow. There seems to be a considerable difference of opinion and we are all anxious to arrive at a decision satisfactory to all of us.

Mr. PRESIDENT: I am sorry that I cannot agree to holding over the consideration of this clause till to-morrow, but I am prepared to hold it over until the last thing this evening.

The consideration of the motion was accordingly postponed.

NEW CLAUSE 455A.

The following motion standing in the name of Rai Mahendra Chandra Mitra Bahadur was, in the absence of the member, deemed to be withdrawn:—

Health Officer and Executive Officer to be under the control of the Corporation.

"455A. The Health Officer and Executive Officer shall in the exercise of his powers under this Chapter be subject to the control of the Corporation."

The following motion was, by leave of the Council, withdrawn:—

Babu AMULYA DHONE ADDY: "That after clause 455, the following new clause be inserted, namely,—

Health Officer to be under the control of the Corporation.

'455A. The Health Officer or the Executive Officer shall in the exercise of his powers under this chapter be subject to the control of the Corporation.' "

CLAUSE 465.

Mr. ABDUR RAHEEM: I move that after clause 465(*1*), the following be inserted, namely:—

"(*1a*) acquire any land which abuts on a street vested in them, and which cannot, in their opinion, by reason of its size, situation or other circumstance connected with it, be used for building purposes."

There are quite a number of building sites abutting on main roads in Calcutta which, by reason of their shape, situation, and size, cannot possibly be built upon. The Corporation have no power at present to acquire these sites and to make them over to adjoining owners which is the only use that they can possibly be put to in several cases. For instance, there is a plot of land situated at the corner of Wellesley Street and Ripon Street, 150 feet to 200 feet long and 15 feet deep at one end and only 6 feet deep at the other with a one-storied structure on it, but what will happen to this site when the structure comes down? As the structure stands now, no further stories could be added to it unless the one-storied stucture is demolished, and once it is demolished, the question of back space will come in. As I have just said the total depth of the plot is only 6 or 7 feet, so how could 10 feet back space be left? If such buildings are allowed to exist, the result of that will be that no further floors can be built upon it and when the one-storied structure falls down, even that one-storied building cannot be rebuilt. This means unnecessary waste of land. There are other cases like this in several streets which must lie idle and give rise to nuisances. If such sites can be acquired and made over to the adjoining owners, it will not only help to put the land to some use, but will also improve the appearance of the street and

bring in revenue to the Corporation in the shape of rates. I therefore move this amendment.

Mr. S. W. GOODE: I would like Mr. Raheem to read section 364 of the present Act. Under that section, the Corporation is empowered, on an application of the owner of any site, to put that site up to public auction and the adjacent owner has the right of pre-emption over that site, subject of course to a reserve price over all other bidders. Well, that clause which is more or less the kind of legislation which Mr. Raheem wants to have inserted in the Bill, has in the past been absolutely inoperative and there has not been any case to my knowledge in which that provision has been applied. Its application depends on the owner of the vacant site making a petition to the Corporation. Now, if he reaches the position that he is prepared to have the land sold, because it is useless and he cannot develop it in any way, then it is a simple matter for him to offer it at some reasonable price to the owner of the adjacent property. The business can be arranged privately without recourse to the Corporation. I think that it would be unwise to give the Corporation the power voluntarily to take possession of the land for the purpose that Mr Raheem suggests. I therefore suggest that if the owner of the vacant land is voluntarily prepared to dispose of his land, he can do so by an ordinary agreement with the proprietor of the adjacent land. From this point of view, I am afraid we must oppose this amendment.

Babu SURENDRA NATH MALLIK: I would beg to point out to Mr. Raheem that, to my mind, this would lead to a hopeless position Supposing there is a plot of land lying vacant, what would be the effect if the owner of the adjacent property does not want to buy it, because my friend started with the supposition that it could not be used for domestic purposes? If I am the owner of the adjacent land, why shall I purchase it, when it cannot be built upon? The owner of the adjacent land may not purchase it at all. There are two kinds of cases: in one case the owner of the adjacent land though he can purchase it, he will not purchase it because he knows that the land cannot be used for any purpose. There is no reason why he should purchase it or acquire it for nothing. And if we cannot find any purchaser what will be the position? Should the Corporation go on purchasing small strips of land without the slightest chance of their being disposed of to the adjacent owners? In the other case in which the adjacent owner can purchase it and is willing to purchase it, why, should we pay an impossible price and acquire it through the Land Acquisition Act? Why should we intervene and do this for the benefit of others? There is absolutely no reason for our doing so. It will be a case in which a rich man will coerce a poor man to sell property at a smaller price. I do not think that that would be a proper thing for us to do. We should not do anything in the interests of anybody.

Mr. ABDUR RAHEEM: I do not like to press the amendment.

The motion was then, by leave of the Council, withdrawn.

CLAUSE 465B.

Kumar SHIB SHEKHARESWAR RAY: I move that at the end of clause 465B, the following be added, namely,—

"or any part of a building which is required for the worship of a Hindu deity situated therein and which according to the Hindu Shastras or local custom and usage cannot be removed therefrom."

My amendment, I daresay, is in full consonance with the spirit of British rule in India, which is pledged not to lay any rough hands on any matter which might concern our religion. But, Sir, it has sometimes happened that in spite of this express pledge, some zealous officers have been tempted, either through their ignorance or through the weakness of the opposition, to ignore the religious susceptibilities of particular communities. In some cases their action has even led to dire consequences including riots and bloodshed. My amendment is intendd to obviate such indiscretions, for without some such legislative provision, we have no right to oppose on religious grounds any acquisition of land. Sir, it might be urged that all public places of worship have been exempted, but it must be also borne in mind that very few temples containing *shiva linga* or other irremovable deities, can, under the modern law, claim to be regarded as public places of worship. For most of them are founded in the family dwelling-houses by persons religiously disposed, and though members of the public can pay their homage to them, yet in the eyes of the law, they must be regarded as private shrines. I might quote a Sanskrit text: *Shivalingam na chalayet* which means—"it is highly sacrilegious to remove an *Anadi Shivalinga* whether the *Linga* is worshipped by the public or not."

It might be urged by the Government that people might install deities in every house, thus binding the hands of the Corporation. But this difficulty could be overcome if it be ruled under the building regulations that henceforth nobody without the previous sanction of the Corporation would be allowed to install any irremovable deity in any building. That, I think, would be enough to safeguard the interests of the Corporation. And, Sir, this is exactly the procedure in the zamindaries in the mufassal where no tenant can set up any place of worship on his land without the consent of his zamindar.

My amendment only urges upon the Government to be a little sympathetic towards the religious feelings of the Hindus. The Government, in this Bill has shown considerable sympathy with the Muhammadans. It is true they are a very religious people and are prepared to go to extremes for their religion and community, whereas we, the educated

Hindus, boast of being enlightened, and therefore, liberal-minded, and the modern criterion of enlightenment is religious cynicism. As such, I can hold out no threat to the Government, I can only appeal. And I do appeal to the Government and specially to the Hindu Minister and the Hindu Chairman of the Corporation on behalf of those Hindus, who are not yet sufficiently enlightened, to get over their religious scruples, to extend their helping hands to us and save our religion from sacrileges being perpetrated on it.

Babu KISHORI MOHAN CHAUDHURI: I beg to support this amendment. There is every reasonable ground for asking the adoption of this amendment. If there is any difficulty, that difficulty may arise in private Hindu houses where *shiva lingas* are worshipped in a fixed place. If any feeling is to be shown to public places of worship, I think some consideration should be shown to private houses. I hope the suggestion will be accepted by Government.

The Hon'ble Sir SURENDRA NATH BANERJEA: I am in deep sympathy with the motion and I think we must respect the religious feelings of the Hindu community, especially of those who inspired by piety set up these shrines in their homes. I may at once point out to my friend, Kumar Shib Shekhareswar Ray, that the Corporation is exceedingly careful in dealing with private shrines. I know of a case myself which came up to me in an appeal as Minister in charge of Local Self-Government. It was a case in which the Corporation acquired considerable property near the Corporation Street and there was a temple in it; it was a private temple, a private shrine, not open to public access. Well, Sir, a good deal of agitation took place in connection with this matter and the Corporation ultimately thought fit to acquire the whole of the property, save and except this temple. The shrine was not removed, but the rest of the property, which the owner did not want to be acquired, was taken up for a public purpose by the Corporation. Therefore, I am right in assuming that ordinarily speaking the Corporation in which the predominant element would be Hindus would treat with consideration and even respect any Hindu temple, public or private, which had to be dealt with by that body. I hope my hon'ble friend will accept the view that at least in the constitution of a Corporation dominated by a Hindu element sensitive to public opinion there will be the desire —not to outrage feelings which are too sacred to be tampered with. I say therefore, that there being this feeling, the question is whether we should by a positive enactment declare that all private shrines should be withdrawn from the purview of land acquisition where such acquisition may be necessary in the public interests. My friend, Kumar Shib Shekhareswar Ray, to whom I was listening with great attention, has restricted the area of acquisition—if I heard him aright. He says that it should be confined to *Anadi lingas* on images which are fixed to the ground, and therefore it is not a general proposition that he lays down by the

proposed limit which he has suggested. He advocates that the Corpor tion should make a rule such as prevails in connection with zamindari where, when temples of this kind are set up, the consent of the zamindai has previously to be obtained.

I should like to consult the Corporation in a matter of this kin before I limit the existing powers of the Corporation. I fear the que tion is beset with difficulties. There are the religious considerations, a the same time I should be extremely unwilling to limit the discretion o the Corporation unless I had their support in this matter. On the on hand there are executive considerations of a public character, and on th other there are religious feelings which have to be respected, and I fe that in a matter of this kind I should like to have the views of the Corpo ration or at any rate of my friend, Mr. Mallik, before I can see my wa to accept the amendment.

Would you, Sir, kindly keep this matter back for an hour or so?

Mr. PRESIDENT: I do not like to hold this back. Mr. Mallik i here; you can consult him.

Rai Dr. HARIDHAN DUTT Bahadur: May I ask the Kumar Sahi whether during the last 25 years he has known of any case in whic a Hindu temple containing a *shiva linga* was acquired by the Corpora tion?

Kumar SHIB SHEKHARESWAR RAY: Yes, I know of a case quit recently in Dutt Lane where there was a great agitation over it. attended the meeting and we passed a resolution and in spite of all thi the Corporation actually acquired the land. I saw the place myself.

Babu SURENDRA NATH MALLIK: I knew that my friend, th Kumar Sahib, had the Dutt Lane area acquisition in his mind when h moved his amendment. As soon as I read it a fortnight ago I knew tha he had that area in view, because I received a petition in which his nam also figured. This has formed the subject matter of 27 attacks on th Chairman of the Corporation as well as on the Hon'ble the Minister Thrice the matter was referred by the Hon'ble the Minister to the Corpora tion in the course of the last three years, and thrice it was reported o that there was no private shrine or anything of that description which it claimed to be; therefore, the whole question is quite beside the point My friend Raja Reshee Case Law was also one of those who asked ques tions about it and took some interest, and I suppose he is satisfied tha it is not one of those places which could really be said to be a place where there was a Hindu deity situated therein and which, according to th Hindu shastras or local custom and usage, cannot be removed there from—

Mr. PRESIDENT: You need not pursue that point, Mr. Mallik.

Babu SURENDRA NATH MALLIK: The Corporation, as a matter of fact, has never acquired such land; they have respected the wishes of the Hindus; I do not see any reason for this amendment.

The Hon'ble Sir SURENDRA NATH BANERJEA: Am I to understand that Mr. Mallik does not want this amendment?

Babu SURENDRA NATH MALLIK: No, I do not want it.

The Hon'ble Sir SURENDRA NATH BANERJEA: In that case Government will not accept it. As a matter of fact, from the statement of Mr. Mallik, the responsible Chairman of the Corporation, a case of this kind has never occurred; so why should you have an amendment of this kind in views of something which is non-existent and may never occur? I am not prepared to accept the amendment.

The motion was then put and a division taken with the following result:—

AYES.

Addy, Babu Amulya Dhone.
Aizal, Nawabzada K. M., Khan Bahadur.
Ahmed, Munshi Jafar.
Ali, Munshi Amir.
Azam, Khan Bahadur Khwaja Mohamed.
Banerjea, Dr. Pramathanath.
Basu, Babu Jatindra Nath.
Bhattacharji, Babu Hem Chandra.
Chaudhuri, Babu Kisheri Mohan.
Chaudhuri, Khan Bahadur Maulvi Hafizar Rahman.
Chaudhuri, Rai Harendranath.
De, Rai Bahadur Panindralal.
Dess, Rai Bahadur Pyari Lal.
Karim, Maulvi Fazlal.
Makramali, Munshi.
Mukhopadhaya, Babu Sarat Chandra.
Nasker, Babu Hem Chandra.
Ray, Kumar Shib Shekhareswar.
Ray Choudhury, Raja Manmatha Nath.
Rishi, Babu Rasik Chandra.
Roy, Rai Bahadur Lalit Mohan Singh.

NOES.

Ali, Munshi Ayub.
Banerjea, the Hon'ble Sir Surendra Nath.
Bentley, Dr. C. A.
Birley, Mr. L.
Das, Babu Bhishmadev.
De, Mr. K. C
Deare, Major-General B. H.
DeLisle, Mr. J. A.
Dey, Mr. C. C.
Donald, the Hon'ble Mr. J.
Donovan, Mr. J. T.
Emerson, Mr. T.
Faroqui, Mr. K. C. M.
Forrester, Mr. J. Campbell.
Ghose, Rai Bahadur Jogendra Chunder.
Goode, Mr. S. W.
Hornell, Mr. W. W.
Huntingford, Mr. C. T.
Khan, Maulvi Hamid-ud-din.
Khan Chaudhuri, Khan Bahadur Maulvi Muhammad Ershad Ali.
Law, Raja Reshee Case.
Mallik, Babu Surendra Nath.
Marr, Mr. A.
McAlpin, Mr. M. C.
Mukherji, Professor S. C.
Philip, Mr. J. Y.
Raheem, Mr. Abdur.
Robertson, Mr. F. W.
Roy, Mr. C. H.
Ray, Mr. J. N.
Sen, Babu Mani Lal.
Stephenson, the Hon'ble Mr. H. L.
Stuart-Williams, Mr. S. C.
Suhrawardy, Dr. Hassan.
Villiers, Mr. F. E. E.

The Ayes being 21 and the Noes 35, the motion was lost.

[At this stage Kumar Shib Shekhareswar Ray took the Chair.]

CLAUSE 466.

Mr. D. J. COHEN: On behalf of the Shah Sahib, I move that clause 466, proviso (i), last line, for the word "may" the word "shall" be substituted.

This clause provides for the payment of compensation in all cases which the owner proves that he had incurred expenditure to secure more profitable disposition of his property before the property had bee declared for acquisition. So in this case the onus is entirely upon tl owner to prove his contention that he had incurred the expenditu before the declaration. This being so, I think as a matter of right tl owner is entitled to receive compensation on the actual loss that he h suffered in this respect. For these reasons, Sir, I think the word "shall should be substituted in place of the word "may."

The Hon'ble Sir SURENDRA NATH BANERJEA: On behalf c Government I oppose the amendment.

The motion was then put and a division taken with the followin result:—

AYES.

Addy, Babu Amulya Dhone.
Banerjea, Dr. Pramathanath.
Basu, Babu Jatindra Nath.
Chaudhuri, Babu Kishori Mohan.
Chaudhuri, Khan Bahadur Maulvi Hafizar Rahman.
Chaudhuri, Rai Harendranath.
Cohen, Mr. D. J.
De, Rai Bahadur Panindralal.
Dutt, Rai Bahadur Dr. Haridhan.
Karim, Maulvi Fazlal.
Khan, Maulvi Hamid-ud-din.
Mukhopadhaya, Babu Sarat Chandra.
Nasker, Babu Nem Chandra.
Ray Choudhury, Raja Manmatha Nath.
Rishi, Babu Rasik Chandra.
Sinha, Babu Surendra Narayan.

NOES.

Afzal, Nawabzada K. M., Khan Bahadur.
Ahmed, Khan Bahadur Maulvi Wasimuddin.
Ahmed, Mr. M.
Ali, Munshi Amir.
Ali, Munshi Ayub.
Azam, Khan Bahadur Khwaja Mohamed.
Banerjea, the Hon'ble Sir Surendra Nath.
Bentley, Dr. C. A.
Birley, Mr. L.
Chaudhuri, the Hon'ble the Nawab Saiyid Nawab Ali, Khan Bahadur.
De, Mr. K. C.
Deare, Major-General S. H.
DeLisle, Mr. J. A.
Dey, Mr. D. C.
Donald, the Hon'ble Mr. J.
Donovan, Mr. J. T.
Emerson, Mr. T.
Farequi, Mr. K. G. M.
Forrester, Mr. J. Campbell.
Goede, Mr. S. W.
Hornell, Mr. W. W.
Huntingford, Mr. G. T.
Huq, Maulvi Ekramul.
Makramali, Munshi.
Mallik, Babu Surendra Nath.
Marr, Mr. A.
McAlpin, Mr. M. C.
Mitter, the Hon'ble Mr. P. C.
Mukherji, Professor S. C.
Philip, Mr. J. Y.
Raheem, Mr. Abdur.
Rahim, the Hon'ble Sir Abd-ur-
Robertson, Mr. F. W.
Roy, Mr. C. N.
Roy, Mr. J. N.
Sen, Babu Mani Lal.
Stephenson, the Hon'ble Mr. H. L.
Stuart-Williams, Mr. S. C.
Suhrawardy, Dr. Hassan.
Suhrawardy, Mr. Huseyn Shaheed.
Villiers, Mr. F. E. E.

The Ayes being 16, the Noes being 41, the motion was lost.

The following amendment standing in the name of Rai Mahendra Chandra Mitra Bahadur was, in the absence of the member, deemed to be withdrawn:—

"That in clause 466, proviso (*ii*) and (*iii*), be omitted."

[At this stage the Hon'ble the President returned to the Chair.]

Babu AMULYA DHONE ADDY: I move that proviso (*iii*) to sub-clause (*b*) of clause 466 be omitted.

Under this sub-clause, if the market value of a plot of land to be acquired has been increased by means of any improvement made by the owner or his predecessor in interest within one year before the aforesaid declaration is published, such increase shall be disregarded unless it be proved that the improvement was made *bona fide* and not in contemplation of the proceedings for the acquisition of the land.

So it appears that it restricts the amount of compensation for the acquisition of a plot of land or buildings. I beg to submit, Sir, that there is no such provision in the Land Acquisition Act. If a plot of land is acquired by Government for its own purpose under the Land Acquisition Act this provision will not apply. There is no such provision in the Calcutta Port Act. If a plot of land is acquired by Government on behalf of the Port Commissioners, there is no such restriction, but if a plot of land is acquired by Government on behalf of the Calcutta Corporation, this restriction prevails. I do not find any such provision in the case of the Madras Municipal Act, or in the case of the Bombay Municipal Act, and I doubt whether there is any such provision in any of the Acts which are in force in England. When the Calcutta Municipal Bill of 1899 was discussed in the Bengal Legislative Council, the present Hon'ble Minister for Local Self-Government, Sir Surendra Nath Banerjea, strongly opposed this proposal in the Council. He moved an amendment to the effect that the sub-clause should be omitted altogether, and he was supported by all the non-official members of the Council, but as they were then in a hopeless minority they could not carry the amendment.

As regards the merits of the clause, I beg to submit that, under its provisions, if a person makes any improvement within one year of the date of the declaration he will not be entitled to any compensation whatsoever for that improvement unless he proves that the improvement was a *bona fide* one. But how can he prove that? Why should you presume that he was aware that the improvement was going to be made by the Calcutta Corporation? Sir, several schemes have been sanctioned for some years back by the Corporation, but for want of funds they could not be executed. But is it to be presumed that the owner of the land and buildings affected by these schemes knew that such schemes have been sanctioned by the Corporation, and will this be an equitable ground for the non-payment of compensation for the improvements which he has carried out on his land and buildings?

Mr. PRESIDENT: Am I to understand that you want to move also item No. 615?

Babu AMULYA DHONE ADDY: No, Sir. Let me take the case of a person accused of a serious offence under the Indian Penal Code. Is it to be presumed that he is guilty? Certainly not. On the contrary

it is to be presumed that he is innocent and the burden of proof is on the complainant. It is he who is to prove before the court that the accused is dishonest that he has committed an offence under the Penal Code. Therefore, Sir, it seems to me that the provision embodies a principle which is contrary to that laid down by Government. It will be really a source of great hardship if a person is called upon to prove that he is honest and that his intention is a *bona fide* one. With these remarks I beg to commend my motion to the acceptance of the House.

Babu SURENDRA NATH MALLIK: My friend has objected to this and has asked for its deletion. I must first of all bring to his notice that this is in the existing Act. The only thing that I need point out is that the rigour of this section as it stands has been reduced by putting in the word one year instead of two years. Formerly it read—

> If the market value has been increased by means of any improvement made by the owner or his predecessor in interest within two years before the aforesaid declaration was published, such increase shall be disregarded unless it be proved that the improvement was made *bona fide* and not in contemplation of proceedings for the acquisition of the land or building being taken under the said Land Acquisition Act.

In the place of that the rigour has been softened by reducing the period to half. In view of that where is the reason for this objection? All that the section aims at is to put the onus of proof on the persons that these things were done *bona fide*, and that they did not carry out improvements with the knowledge that the acquisition would take place very soon. Ordinarily, in all such cases it is known long beforehand that a certain improvement is going to take place in a particular locality; long long before the publication of the particulars of the scheme. Surveys are made and people all come to know. There is no secrecy about it; the people in the locality know about it, perhaps two or three years before it can be completed and the declaration made in the *Calcutta Gazette* for acquisition. Even under the Calcutta Improvement Trust there is a special provision that when a scheme is framed people are invited to give their opinions; their opinions are considered, alterations are made in the alignment where necessary, and it is after this that schemes are settled and final declarations are made accordingly. So that one thing is certain and that is that people come to know of these schemes long before they are actually published and declared. In that view the law was that you could not get the value of anything that you did two years before the declaration; this has been reduced to one year. The old law has been sufficiently modified and all possible rigour has been taken away. Still my friend asks for the deletion of this clause. I leave it to the House to consider whether there is any reason whatsoever to accede to my friend's request at all.

The motion was then put and lost.

CLAUSE 467A AND NEW CHAPTER XXXIIIB.

CLAUSE 467A.

The following amendment standing in the name of Shah Syed Emdadul Haq was, in the absence of the member, deemed to be withdrawn:—

"That clause 467A (*iv*) be omitted."

Mr. S. W. GOODE: I move that the word "the" be inserted before the word "playing" in line 1 of clause 467A (*iv*).

Babu SURENDRA NATH MALLIK: Sir, with your permission, may I venture to point out one particular thing to Mr. Goode in connection with this amendment and also to the Hon'ble the Minister for their consideration? It is this: It is well known that there is a Children Act and in pursuance of that Act there might be homes established in Calcutta for the purpose of sheltering these children and to train them for their future life. We have heard it said that in clause (*b*) infirmaries, Homes, Orphanages, etc., are mentioned, but I think it would be better if the Government will kindly put in the words "Homes for children who have passed through the Children's Court under the Children Act," either in this clause or in a separate clause by itself. That will help us very much in our work of helping these institutions and it will indirectly help the different communities of Calcutta. If Mr. Goode accepts my suggestion he might ask your permission to insert the same somewhere in the Bill.

Mr. S. W. GOODE: Sir, my amendment refers to sub-clause (*iv*) of clause 467A. But Mr. Mallik's proposal would naturally fall under sub-clause (*ii*). I would like to reply to this matter after the necessary change as embodied in this amendment is carried.

The motion was then put and agreed to.

The following amendments standing in the name of Shah Syed Emdadul Haq were in the absence of the member deemed to be withdrawn:—

"That in clause 467A (*vi*), lines 1 and 2, for the words 'maintenance of hospitals' the words 'maintenance of charitable hospitals, dispensaries for cattle' be substituted."

"That at the end of clause 467A (*vi*), the words 'and the provision of a supply of fresh articles of food and pure milk' be added."

Mr. ABDUR RAHEEM: I move that after clause 467A (*vi a*) the following be inserted, namely.—

"(*vi aa*) the payment of contributions to the Calcutta Hospital Nurses' Institution.

I believe it is only a formal matter. The Corporation for years ha been paying a contribution of Rs. 20,000 per annum to the Calcut Hospital Nurses' Institution. Sir, the legality of this payment ma be questioned in future and it is in order to guard against that that move this amendment. Sir, this institution has been doing useful se vice and if the payment is stopped the institution cannot be kept u It is very doubtful whether the wording of sub-clause (*b*) will perm of any contribution. At any rate the question is not free from doul as it is not known whether the term "hospital" would include an instit tion for the training of nurses, and whether any contribution to suc an institution could be justified under that sub-clause. It is a doubtf point and I therefore want to clear up the matter.

Mr. S. W. GOODE: Sir, we will accept this amendment. But I wil suggest a change in the wording. I think it would be better if instea of the wording in the amendment we insert the following words afte the word "nurses," viz., "or institutions for providing nurses" becaus the chief function of the institution is to provide nurses for variou hospitals.

Mr. ABDUR RAHEEM: I accept Mr. Goode's suggestion.

Babu SURENDRA NATH MALLIK: Sir, may I say just one word I do not think it would be proper to refer to one particular institution My point is that it should be worded in such a way that it should includ nurses of all denominations—not merely European or English nurse who are trained in the Calcutta Hospital Nurses' Institution but India Nurses as well. That is my point.

Mr. PRESIDENT: Mr. Goode's amendment provides for that.

Mr. Abdur Raheem's motion was then, by leave of the Council, with drawn.

Mr. S. W. GOODE: Sir, I would, in place of Mr. Raheem's amend ment, move the following amendment:—

"That in clause 467A (*via*) after the word 'nurses' the words 'o institutions for providing nurses' be inserted and also after the wor 'orphanages' in clauses 467A (*vi*) and (*via*), the following be inserted namely,—

'industrial schools and auxiliary homes for the purposes of th Bengal Children Act, 1922.'"

The motion was put and agreed to.

Rai Dr. HARIDHAN DUTT Bahadur: I move that in cause 467A (*vid*), line 3, the words "or without" be omitted. The section run thus:—

The payment of contributions towards any public fund raised for the relief o human suffering within or without Calcutta.

Sir, at the present moment the Corporation of Calcutta can spend any amount of money within the four corners of the city, but it has no right to spend money outside its limits, however laudable that object might be. To enable the Corporation to obviate that difficulty this clause has now been added which gives the power to the Corporation to spend money on any social service within or outside Calcutta. I am suggesting that this power for spending money for the relief of human suffering outside Calcutta should not be allowed to the Corporation. It might be said that it is not in keeping with modern views, namely, that wherever human suffering exists, relief must be sent. I personally feel that whenever there is any honest and noble effort made for the purpose of relieving suffering humanity, our purse-strings should be opened and contributions should be made. But, Sir, there are reasons why they should be restricted in the case of a body like the Calcutta Corporation. The Calcutta Corporation, as we all know, is a body constituted for the purpose of doing certain services to the city. These services come under the head of primary dutis of the Corporation. Here, Sir, under Chapter XXXIIIA, certain special powers have been given to the Corporation, to perform duties which are of a secondary nature. That being so, the Members of the Corporation—are disposed to perform a charitable act—

Mr. S. W. COODE: May I interrupt the Hon'ble Member? I may tell Dr. Rai Haridhan Dutt Bahadur that we are going to accept his amendment. This will perhaps shorten the debate

The motion was put and agreed to

Mr. ABDUR RAHEEM: Before I move my amendment I beg leave to ask your permission to modify it slightly so that it might be acceptable to Government.

Mr. PRESIDENT: Yes, you can do that.

Mr. ABDUR RAHEEM: I move that after clause 467A (*vid*) the following be inserted, namely:—

(*vidd*) the payment of contributions to charitable institutions in Calcutta for assisting in the disposal of unclaimed corpses and the burial or cremation of paupers.

Mr. S. W. COODE: We accept it.

The motion was put and agreed to.

Babu JATINDRA NATH BASU: I move that in clause 467A (*viii*) the word "primary" be omitted.

I also move that after Chapter XXXIIIA the following be inserted namely,—

PART VIA.

CHAPTER XXXIIIB.

PRIMARY EDUCATION.

Primary education.

"467B. The Corporation shall every year provide such part of the consolidated rates being not less than one per cent. thereof as they shall think fit for the purpose of promoting primary education of boys and girls between the ages of six and ten residing within the limits of Calcutta.

Corporation to provide free education within ten years.

"467C. The Corporation shall within ten years from the commencement of this Act provide for free and compulsory primary education in Calcutta.

Provisions of the Bengal Primary Education Act to apply.

"467D. On the Corporation providing for free and compulsory primary education in Calcutta the provisions of sections 7, 8, 9, 10, 11, 12, 13, 14 and 15 of the Bengal Primary Education Act, 1919, shall apply to Calcutta."

There are 544 clauses in this Bill and 21 schedules. They are classed under 10 parts. Those of the parts that relate to substantive law are headed "constitution," "financial control," "taxation" and "public health, safety and finance." But we do not find anywhere in the Bill any such heading as "education." It has now been recognized that local bodies must take up primary education as an important part of their duties. There is a provision, Sir, in the Bill, viz, clause 467A (viii) which says that the Corporation may in their discretion provide for the promotion of primary, technical, and industrial education. So, in the whole of this large Bill, we find the mention of primary education only in a small sub-clause, that is to say, sub-clause (viii) of clause 467A. Having regard to the importance of primary education, it is a matter of

great regret that it should have been confined to such a small place in the Bill. Under the Bill, primary eduuation is not cumpulsory. We all know how we lag behind the other civilized countries in the world in matters of education. The people are keen about acquiring education. If this Act is going to be expressive of the people's mind, it should contain a provision for cumpulsory primary education.

As regards the expenditure that the Corporation actually incurs, the fact is that it has only recently come to incur, about the same percentage which I have recommended in this amendment. The Corporation of Bombay spends about twice the amount that the Calcutta Corporation does. If primary education is to be made cumpulsory in Bengal, a commencement should be made in Calcutta at a very early date. We should remember that we are dealing with an important piece of municipal legislation towards the end of the first quarter of the twentieth century. Is it too much to expect that while doing so, we should not satisfy the hunger of the people for education. That hunger in the present circumstances is almost as intense as the hunger for food. The scheme I have proposed is neither utopian nor impracticable. It provides that the Corporation shall spend a certain minimum sum every year on primary education. The amount, as I have already stated, is about the same sum which it spends now. The Corporation has the liberty of spending more. Having regard to the admitted and long-standing neglect of primary education by the Corporation in the past, the people want that the Corporation should not only have the power to provide facilities for primary education, but that it shall provide such facilities. The amendment provides that free and cumpulsory primary education shall be provided in Calcutta. I do not want that it should be done at once. I have provided for a period of ten years during which it should be done. Sir, a considerable amount of water will flow under the bridge during the next ten years, and if we allow such a provision to be made in the Bill to-day we shall earn the gratitude of the future citizens of Calcutta and set an example to other local bodies throughout India. Sir, I would urge upon the acting Chairman and the members of the Corporation not to look at the question from a narrow point of view, and I hope that they will not hesitate to shoulder more responsibilities than the Corporation now have. Government have for the past two years provided assistance to the Corporation in the matter of the development of primary education. During the current year, the provision that was made has been withheld owing to financial stringency. Sir, the entire Bill is meant to be a great democratic measure and a great step forward. It would be incomplete without the provision which my amendment seeks to introduce, in the Bill. We should remember that the Bengal Primary Education Act is only permissive. We want that the provisions in this Act should be cumpulsory.

Dr. PRAMATHANATH BANERJEA: I desire to give my whole hearted support to this amendment. There was a time when education

formed no part of the duties of the Calcutta Corporation. It was about 35 years ago, that at the instance of the late Sir Gurudas Banarji, then a non-official member of the Bengal Legislative Council, a small provision for encouraging education was made in the Municipal Bill, which was then under consideration. Much water has, however, flowed down the Ganges since then. The country has made rapid progress in various directions. But in this matter there has been very little progress in Calcutta. It is a great pity that the educational activities of the Corporation are still of a minor—I may almost say, negligible—character. It is high time, therefore, that the Corporation should take up the duty of promoting primary education in right earnest. As this can be done only by providing funds, it is necessary to set apart, as has been suggested in the amendment of my friend, Mr. Jatindra Nath Basu, a portion of the consolidated rates for the purpose. Sir, in every civilized country, the promotion of education is regarded as one of the essential duties of a local body. I, therefore, strongly commend this amendment for the acceptance of this House.

Babu DEBI PROSAD KHAITAN: I indeed feel grateful to my esteemed friend Mr. Jatindra Nath Basu that he has brought this very important and desirable matter to the notice of this House. Sir, it is indeed a disgrace to the town of Calcutta that we have not yet set about in right earnest on the road to make primary education free and compulsory in this city, although it is recognized as the second city of the Empire. Sir, some of my friends here may think that the desire of my friend, Mr. Jatindra Nath Basu, is very ambitious and that the words "one per cent" may terrify them, but Sir, Mr. Basu does not mean a cumpulsory contribution of one per cent. of the annual valuation of Calcutta, but only one per cent. of the consolidated rates that are realized and one per cent. of such rates do not exceed one lakh of rupees per year. [A voice: It is one lakh and twenty thousand.] Yes, but my hon'ble friend, who has just interrupted me, seems to have forgotten that some portion of the rates is realized from licenses, etc., and that this would be deducted from the total revenues of the Calcutta Corporation Sir, my hon'ble friend, Mr. Jatindra Nath Basu, has only asked for one per cent. of the consolidated rates, which would be only about one lakh of rupees per year. So far as I know, the Calcutta Corporation has already undertaken schemes upon which the Corporation would have to spend one lakh of rupees per year. Government is agreeable to give us even now a grant of about three lakhs per annum, so, that added to the one lakh that Mr. Basu demands, the total expenditure should amount to about four lakhs per year. This is really not too much, but really a very modest amount to spend upon primary education and to make a serious effort to make it free and compulsory. I hope Government will see their way to accept this amendment, which is nothing but quite modest. But in supporting the amendment No. 626, I do not see why my friend, Mr. Basu, should want the deletion

of the word "primary" in section 467A. It simply gives some special powers to the Corporation. He wants to insert a separate chapter, but I do not see what necessity there is for deleting the word "primary" from section 467A. Therefore, I oppose amendment No. 624 and support amendment No. 626.

SHAH SYED EMDADUL HAQ spoke in Bengali in support of the motion.

SHAH SYED EMDADUL HAQ moved that in clause 467A(*viii*), after the word "primary" the words and brackets "(free and compulsory)" be inserted.

Rai Dr. HARIDHAN DUTT Bahadur: I rise to give my humble support to this amendment of Mr. Basu. I have been one of those small groups of municipal Commissioners of Calcutta, who have tried their level best to introduce primary education in proper form in Calcutta. I find before me, Mr. Mallik, to whom the credit is due to a very great extent of giving a push to primary education recently in Calcutta. I hope my friends would not forget that the Calcutta Corporation has already committed itself to the duty of introducing primary education in a proper form throughout the different portions of the city and amongst its various communities. About four or five years ago, the question of compulsory and free primary education was taken up by the Corporation and we felt great difficulties in our way. Those difficulties still remain, and we feel the necessity of dealing with this subject in a way so that those difficulties might soon be overcome. I feel that Mr. Basu's amendment, if carried in this Council, and if it forms a part of the Calcutta Municipal Act, will help us in removing some of these difficulties.

Mr. S. W. COODE: May I intervene at this stage? I would like to say that Government, after consultation with Mr. Mallik, the acting Chairman of the Corporation, are prepared to accept the amendment of Babu Jatindra Nath Basu with a slight modification. Our suggestion is that the Corporation should annually spend not less than Rs. 1,00,000 for the purpose of promoting primary education among boys and girls between 6 and 10 years of age residing in Calcutta. Instead of mentioning the percentage, Mr. Mallik would like to limit the sum to Rs. 1,00,000 per annum.

Mr. PRESIDENT: Do I understand that you agree to the new chapter and the clauses proposed in Mr. Basu's amendment with that verbal alteration?

Mr. S. W. COODE: I am dealing with the proposed clause 467B regarding the allotment of funds.

Mr. PRESIDENT: But all these clauses 467B, 467C and 467D are included in the Chapter proposed in the amendment. They have all been moved together. They are all parts of the same amendment.

Mr. S. W. GOODE: My proposal is that the moves should be content with this provision of Rs. 1,00,000 and that these three amendments fixing the time limit to 10 years, etc., should be dropped because they put an uncertain obligation upon the Corporation. I hope that it will be acceptable to the Council if a statutory provision of Rs. 1,00,000 is provided in the Bill.

Rai Dr. HARIDHAN DUTT Bahadur: May I suggest for the kind consideration of the Government that they should substitute the figure and word "15 years" for the figure and word "10 years" in the amendment.

Sir SURENDRA NATH BANERJEA: I do not think we can accept any limit of time.

Mr PRESIDENT: Mr. Goode, do you want the new section to come in at the end of Chapter XXXIIIA?

Mr. S. W. GOODE: It may come in as a separate clause. At this stage I am merely making a suggestion to ascertain the views of the House, I shall formally move my amendment later on.

Mr. PRESIDENT: The reason for my asking this is that Mr. Basu has moved for the insertion of an entirely new chapter headed "Primary education": so far as I can understand Government is only willing to accept clause 467B of the proposed chapter That cannot, however, make a chapter by itself

Babu JATINDRA NATH BASU: I do not think it can come under any other chapter, Sir But may I inquire whether it is the intention of the Government that Rs. 1,00,000 should be the minimum limit of the expenditure on primary education?

Mr. PRESIDENT: Mr. Goode's suggestion is that it should not be less than Rs. 1,00,000.

Babu JATINDRA NATH BASU: In that case I accept Mr. Goode's suggestion.

Babu SURENDRA NATH MALLIK: I am very glad that this motion has been brought forward. Sir, I yield to none in my desire to see primary education established in Calcutta. If there has been one hobby in my life it is primary education. When I was 13 years of age, I and a few youthful friends of mine under the leadership of my esteemed friend Rai

Jogendra Chunder Ghose Bahadur began to teach boys in the slums of Calcutta by opening night schools, etc., and there never has been a day in my life when I have not done something towards furthering the cause of primary education and Providence has now been pleased to place me in such a position that I can give practical shape to some of my youthful dreams. Sir, I sympathize with everything that has been said in support of the amendment. And I do not think that very much more need be said so far as the question of making primary education universal in Calcutta is concerned. I do accept with very great pleasure the suggestion that the Corporation should spend at least Rs. 1,00,000 per annum towards primary education. But I am sorry I cannot accept any further responsibility for the present because I have not the consent of the Corporation to do it. But I am sure that we shall spend more than a lakh of rupees a year. I can assure the House that next year we are going to spend at least two lakhs. But what I would not accept is the statutory obligation. It is difficult to accept statutory obligations now, particularly in view of our large commitments in the water-works and drainage schemes and also in view of our commitment for taking the areas of Baranagar, etc., within our jurisdiction. We should be very careful at present in our onward march. Therefore, I would not accept a statutory obligation for more than a lakh of rupees at present.

We have been doing our duty and I strongly protest against the observations made by Dr. Banerjea that the Corporation have not been doing their duty towards the masses. Very few people do take interest in matters relating to the activities of the Corporation outside it, and I therefore strongly object to observations of that character. We have been spending money on primary schools and even middle schools all over Calcutta, and I submit that it is an absolute untruth to say that we have been neglecting our duty in this behalf——

Mr. PRESIDENT: Not untruth, Mr. Mallik, but misstatement.

Babu SURENDRA NATH MALLIK: Yes, Sir, it is a misstatement. Then there is one other thing so far as Babu Jatindra Nath Basu's motion is concerned. I do not know why he has suggested the omission of the word "primary," but one of the chief purposes on which we ought to spend money is primary education. So I think that is possibly a mistake on my friend's part and I hope he will withdraw his motion.

Then as regards his suggestion that the Corporation should provide free education within 10 years, I am very sorry to say that we cannot accept it. My hon'ble friend does not know the requirements of Calcutta as a whole. So far as the question of cumpulsory education is concerned, it will at least cost Rs. 15 lakhs. It is impossible that we shall be able to find Rs. 15 lakhs for this purpose. For all that, my friend might say sitting in his chamber, this hankering in the *bustees* for education is not very keen. I have been going round these places, and I know that in

many instances those boys for whom we have opened schools were hitherto paying something for schooling, and now they are coming for free education. I know all that, but still it is education, and, therefore, we are willing to spend money. You cannot at once raise in these people that hankering for education which my friend has in his stomach. It cannot be done quickly, it will take a very long time. First of all, we have got to find out centres where schools should be opened. That is a very important matter. You must first find out the drift and then establish schools. At present, we, in the Corporation, are starting these schools in the existing schools without payment of rent, etc. Therefore, Sir, I do not think we can take up this liability, because it is certain that after 10 years, with all our commitments and the additional liabilities that we have taken upon ourselves in connection with the extended area, it will be impossible for us to accept the liability of spending Rs. 15 lakhs every year. There are 35,000 boys and 25,000 girls in Calcutta—possibly my friend does not know the number. We must have to provide for buildings in many cases as you cannot always locate these schools in other people's houses as at present. You have to start 250 schools for boys and 200 schools for girls and you cannot start these girl's schools in other people's houses. That means money, and the capitalized cost of loan by way of interest and sinking fund would never come down below Rs. 15 lakhs a year for the purpose of providing cumpulsory education in Calcutta—I mean Calcutta only as it exists to-day, not taking into consideration the new additions that we have made. Therefore, I cannot accept the suggestion that within 10 years from the commencement of this Act there should be free and cumpulsory education in Calcutta.

As regards Dr. Dutt's suggestion that it should be done after 15 years, I say do not do this. Do not take up the statutory liability upon yourselves. It will be for you to administer the Corporation, and I say that man is a bold man who can declare that the Corporation will be able to take up free cumpulsory education for Calcuttta in 15 years' time. It is a very difficult problem. I say, go on with the present system: do all you can: spend as much money as you can from every source possible, but do not take up the statutory liability. If after 10 years, Providence so wills that you can spend more money, then why spend Rs. 15 lakhs, you can spend Rs. 30 lakhs. Only one word will enable you to alter or amend the Act. No Government aid is required for this at all. Your will will be sufficient, provided you have the money and the desire to do it. I would therefore suggest that we agree to Rs. 1,00,000 being spent for this purpose, and I would most humbly advise all my friends not to take the statutory liability of having to provide for free cumpulsory education in Calcutta after ten years.

Mr. PRESIDENT: The proper place for the suggested clause is after 96B. I turn back to 96B which refers to the various charges on the

municipal fund. The suggested clause should be 96C and should run as follows:—

96C. The Corporation shall spend annually a sum of not less than one lakh of rupees for the purpose of promoting primary education among boys and girls between the ages of 6 and 10 years and residing in Calcutta.

Will you withdraw your amendment on the paper, Mr. Basu?

Mr. S. W. GOODE: I suggest that the deletion of the word "primary" is necessary. We would accept motion No. 624.

Babu Jatindra Nath Basu's motion that in clause 467A (viii) the word "primary" be omitted was then put and agreed to.

Shah Syed Emdadul Haq's motion was then, by leave of the Council, withdrawn.

The motion of Mr. Goode, as above, was put and agreed to.

At this stage the Council was adjourned for 15 minutes.

After the adjournment.

Babu SURENDRA NATH MALLIK: With your permission, Sir, I would move that after the words "boys" in the new clause 96C, the words "between the ages of 6 and 12" be inserted. Ten years is too small an age for boys for any practical training. My experience is that you cannot get boys of 9 and 10 years for this purpose.

Mr. PRESIDENT: You mean that it should be between the ages of 6 and 12 in the case of boys and between the ages of 6 and 10 in the case of girls.

Babu SURENDRA NATH MALLIK: Yes.

Mr. PRESIDENT: It is extremely inconvenient to have to change a clause 15 minutes after the Council has decided on it. I hope that this should not be regarded as a precedent by any member of the Council. In this case it seems quite apparent that it is a *bona fide* mistake, but it should not be quoted as a precedent.

The following motion was then put and agreed to:—

"After clause 96B, the following be inserted, namely,—

'96C. The Corporation shall spend annually a sum of not less than one lakh of rupees for the purpose of promoting primary education among boys between the ages of six and twelve and girls between the ages of six and ten years residing in Calcutta.'"

Babu SURENDRA NATH MALLIK: I thank you, Sir.

Mr. PRESIDENT: You will have to be very careful. There are some very observant members who are apt to quote precedents.

The following motions were covered by previous decisions of the Council and were not put:—

CLAUSE 468.

Babu AMULYA DHONE ADDY: "That in clause 468 (*32*), line 2, after the word 'feeding' the word 'slaughter' be inserted."

Rai MAHENDRA CHANDRA MITRA Bahadur and Babu KISHORI MOHAN CHAUDHURI: "That in clause 468(*32*), lines 2 and 3, for the words 'and destruction' the words 'destruction and slaughter' be substituted."

CLAUSE 448.

Mr. S. W. GOODE: With your permission I would like to go back to the amendment of Rai Dr. Haridhan Dutt Bahadur to clause 448.

Government would be prepared to accept the amendment in the following form:—

> That the following words, namely, "or by a registered medical practitioner or any other medical practitioner authorized in this behalf by the local Government" be substituted for the words "or by a medical practitioner holding a professional license from the Corporation" in clause 448.

The object of the amendment is that registered practitioners shall automatically be permitted to certify deaths, while in the case of *hakims* and *kavirajes* all that is required is a certificate from the local Government authorising them in that behalf which would ordinarily be granted without difficulty. I think that will meet the wishes of Dr. Dutt.

The amendment was then put and agreed to.

CLAUSE 468.

Babu AMULYA DHONE ADDY: I move that clause 468 (*34*)(*b*) be omitted.

Under this sub-clause "The Corporation may make a by-law for declaring areas in which no person shall keep cattle for the purpose of supplying milk for sale subject to the power given to the Corporation to give such compensation as they may think fit in respect of any cattle-shed constructed in accordance with the plan sanctioned by the Corporation within two years." I beg to submit that there is a similar provision in the existing Act, but it was omitted altogether from the original Bill. It has been inserted in this clause subject to certain restrictions in regard to the payment of compensation. What I beg to submit is that it

will be a source of inconvenience if milch-cattle sheds are not allowed to be erected even if they are constructed in accordance with the sanitary rules prescribed by the Corporation. We all know that for our children we need pure milk, especially in the morning. If in a certain locality a milch-cattle shed is not allowed to be erected, then it will be a source of great inconvenience.

As regards the payment of compensation, it will appear that it is quite within the discretion of the Corporation, and even if a person constructs the shed in accordance with the regulations and with the previous sanction of the Corporation, the Corporation has the right to remove that, but as regards the payment of compensation, it is at their discretion. I beg to submit that it is likely to cause hardship.

Babu SURENDRA NATH MALLIK: This matter was very fully discussed and as a result of that discussion every objection that was put forward by my friend was met, and this was accepted according to his own views. It was at his suggestion that this provision was made and I only added the words—" provided that such structure is removed within the time fixed by the by-law." After that I do not know why my friend says that this should be deleted. If you go on in this way, there is no help.

The motion was then put and lost.

Babu AMULYA DHONE ADDY: I move that [illegible] 468 (44), line 2, for the words " markets " the words " municipal [illegible] " be substituted.

Under this sub-clause the Corporation m[illegible] make by-laws regulating the management of, and the conduct of [illegible] in markets. My suggestion is that the word " markets " may be [illegible] the words " municipal market." That is to say, the Corporation [illegible] authorized to regulate the management and conduct of business in their own [illegible] markets and not in private markets. It will be an undue interference with the management of a private market if the Corporation is authorized to prescribe by-laws to this effect. As regards the erection of buildings—for a market, opening of passages within a market, or the sanitary arrangements of a market, the Corporation has already been authorized to pass the necessary orders and no person is allowed to keep a private market unless and until he complies with the conditions laid down in clause 391 of the Bill. I fail to understand why the Corporation should be authorized to interfere with the internal management of a private market. It may be said that the Corporation may be authorized to prevent persons suffering from any loathsome disease or from a contagious disease from loitering in any market, but these have already been provided for in such clauses 46, 47 and 48 and even as regards the use of incorrect weights the Corporation has been given the power to interfere under sub-clause (49).

As regards the management of private markets I think the Corporation should not be authorized to do so. If I may be allowed to say so, there is a suspicion in the minds of owners of private markets in Calcutta that the Corporation has been taking these coercive measures in order to improve their own markets. It is not desirable that such suspicions should arise.

Babu SURENDRA NATH MALLIK: I must oppose this and that very strongly. My friend's amendment means taking away all control over private markets. This is wonderful and retrograde.

Babu AMULYA DHONE ADDY: I have not said so.

Mr. PRESIDENT: He did not say that you said that but that you intended so.

Babu SURENDRA NATH MALLIK: I feel so sorry for it. What does he mean? I do not know. Should we not have any control over these markets? What are these markets? They are the property of certain private persons, but they are places where the public go and have the right of purchase of their food-stuffs. They serve the public. That is the aspect we want to bring under control and we have been doing that though I am sorry that we have not been able to bring the private markets under control to the extent that is desirable. My friend wants to take away all control.

As regards management, so far as the public is concerned. I do not care what the internal management is. I am not concerned with that, but even as regards that matters may come to this extent. Suppose there is a fish stall, the owner lets it out to a man and gets Rs. 1,000 a month, that man makes it compulsory to raise the price of fish up to Rs. 2 a seer, the public will be helpless and compelled to buy this article at such a rate. Have not we got to control this? Because the market is your private property should you think that you are a veritable Mogul Emperor? That is not the idea. This is a place which you have got to keep under proper condition of serving the public and there must be an authority who will have the right of control over such action of yours as might affect the public prejudicially. This is the situation and the other things are only matters of detail. Now take the case of Jagu Babu's Bazar at Bhowanipur. The Corporation had been trying for the last 17 years to improve it and committee after committee sat over it; they found it impossible even under the existing Act to improve it and here comes my friend and says "take away all control." We have got to control the private markets. Everybody knows that it is necessary. I do not know why my friend should put in a motion which is so retrograde in its character, and everything that we have been able to do in the course of the last 30 years gradually and gradually he wants to wash away.

The motion was put and lost.

SHAH SYED EMDADUL HAQ asked for leave to withdraw his amendment.

The following amendment was, by leave of the Council, withdrawn :—

"That in clause 468(*50*), after the word 'any' the word 'Municipal' be inserted."

Rai FANINDRALAL DE Bahadur: I move that in clause 468(52a), last line, after the word "ice" the words "or ice-cream" be inserted.

I wish to add ice-cream specially sold in Indian quarters commonly known as *kulpi* manufactured by mixing dirty water because it is not less important from sanitary considerations. It may be said that the inclusion of ice in the list will generally suffice for the purpose, but still as a further precaution I like to provide for ice-creams also.

Babu JATINDRA NATH BASU: I move that after clause 468(*52a*), the following be inserted, namely :—

"(*52aa*) for securing the wholesome preparation of ice-cream and iced drinks."

Mr. S. W. COODE: Government would be prepared to accept the insertion of the words. We think that the two amendments proposed by Rai Faninndralal De Bahadur and Babu Jatindra Nath Basu can be met by an amendment to sub-clause (*52a*). I would propose that before the words "or ice" at the end of sub-clause (*52a*) the following words be inserted :—"or sherbet or other similar beverages or ice-cream." We find it impossible to condense the phraseology.

The motions standing in the names of Rai Faninndralal De Bahadur and Babu Jatindra Nath Basu were then, by leave of the Council, withdrawn.

The following motion was then put and agreed to :

"That in clause 468(*52a*), last line, after the word 'cordial' the following words be added :—

'or sherbet or other similar beverages or ice-creams.'"

SHAH SYED EMDADUL HAQ asked for leave to withdraw his amendment.

The following amendment was, by leave of the Council, withdrawn :—

"That clause 468(*62*) be omitted."

CLAUSE 471.

Babu AMULYA DHONE ADDY: I move that after clause 471(*d*) the following new sub-clause be added, namely:—

"(*e*) the Corporation shall, before making the by-laws, receive and consider any objection or suggestion which may be made in respect of such draft by any person interested therein before the date so specified."

It appears from clause 471 that the Corporation can make by-laws after observing some formalities but there is no provision under which they will have to consider the objections or suggestions which may be made after the publication of the draft by-laws. On a reference to the Improvement Trust Act as well as the Bombay Act, I find the said provision embodied in them.

Mr. S. W. GOODE: If I may make an explanation here I think the hon'ble member will perhaps withdraw his amendment. Section 471 provides that these rules should be made after previous publication. Now the definition of previous publication in the General Clauses Act provides that objections shall be heard after the publication of the rules. So I think my friend's point is met under that Act.

Babu AMULYA DHONE ADDY: I beg to withdraw my amendment.

The amendment was, by leave of the Council, withdrawn.

CLAUSE 474.

SHAH SYED EMDADUL HAQ moved that in clause 474(*l*), line 2, the brackets and words "(other than section 291 and section 440)" be omitted.

Mr. S. W. GOODE: If I tell Shah Sahib that Government would be prepared to accept the deletion of the words "section 291 and"—which is partially accepting his amendment—he might be prepared to withdraw the rest.

SHAH SYED EMDADUL HAQ agreed to the amendment proposed by Mr. Goode.

Mr. PRESIDENT: Do you agree, Babu Amulya Dhone Addy?

Babu AMULYA DHONE ADDY: No, Sir, I insist on my amendment. What I suggest is the omission of the words "other than section 291 and section 440." It will appear that the power to make rules under this Bill is subject to the condition of the rules being made after previous publication. Section 291 relates to rules prescribed for licensed plumbers.

Mr. PRESIDENT: You need not elaborate that because it has been accepted by Government.

Babu AMULYA DHONE ADDY: Clause 440 relates to rules which can be prescribed by the Corporation when there is an outbreak of infectious diseases. I admit that the Corporation should be authorized to make special rules even in contravention of the other provisions of the Act in a case of emergency, but at the same time I fail to understand why no opportunity should be given to the public at large to express their opinion and to make practical suggestions to the Corporation for their consideration. There are experienced medical practitioners whose opinion may be of great value to the Corporation. Why should they not be given an opportunity of expressing their opinion? We want the co-operation of the public at large. When even in the case of by-laws it is thought necessary to have the opinion of the public, why should it not be necessary in the case of prescribing a rule under section 440? I beg, therefore, to submit that the words mentioned in my amendment should be omitted altogether so that the public may get an opportunity of expressing their opinion on the draft by-law or draft rule which may be prescribed by the Corporation for the working of clause 440.

Rai Dr. HARIDHAN DUTT Bahadur: I am extremely surprised to find that my friend's attention has not been drawn to section 440 which is of an extraordinary nature. It is that in the event of Calcutta being at any time visited or threatened with an outbreak of any dangerous disease or in the event of any infectious disease breaking out, etc., action will be taken under section 440. Let us hope that there will be no necessity for having recourse to that section. If, however, the occasion arises, certainly all formalities must be given the go-by and every possible step should be taken to expedite the action which will prevent the infectious disease spreading. My friend here comes and suggests that the regulations and by-laws framed under this section will have to be published first, objections heard, medical practitioners consulted, objections disposed of, and all the rest of it. There is nothing more ridiculous than that.

Mr. S. W. COODE: Government oppose this amendment.

The motion was then put and lost.

The following amended motion was put and agreed to:—

"That in clause 474(*1*), line 2, the words 'section 291, and' after the word 'than' be omitted."

Mr. S. W. COODE: I move that in clause 474(*2*) line 3, before the words "or section" the word and figure "section 414" be inserted.

The motion was put and agreed to.

Babu AMULYA DHONE ADDY: I beg leave to withdraw my amendment.

The following amendment was then, by leave of the Council, withdrawn:—

"That after clause 474(2)(*b*), the following be added, namely:—

(*c*) the Corporation shall consider any objection or suggestion which may be made in respect of such draft by any person interested therein before the date so specified."

Babu AMULYA DHONE ADDY: I move that in the table appended to clause 478, after the entry relating to section 318, sub-section (*1*), the following new entry be inserted in columns 1, 2, and 3, respectively, namely:—

1	2	3	4
Section 323, sub-section (2).	Prohibition on licensed building surveyor demanding or receiving more than the prescribed fee.	Two hundred and fifty rupees"	

It will appear from clause 322 that the Corporation have been authorized to grant licenses to building surveyors and in the next clause they have been authorized to prescribe a scale of fees which may be charged by these surveyors But there is no penalty clause under which these surveyors may be punished for their charging more than the prescribed rate. There is a similar provision in the case of licensed plumbers where the Corporation may prescribe a scale of fees and if a plumber charges more than that fee he is liable to criminal prosecution. There is a specific provision to this effect under the Act. I fail to understand why no such provision has been made in the case of licensed building surveyors. Most probably it is an oversight, and in order to rectify it, I make this suggestion for the consideration of the House.

Mr. S. W. COODE: I was prepared to argue that the amendment was quite unnecessary first because a person from whom an excessive fee is demanded might refuse to pay it; and secondly, because the license of the building surveyor may be cancelled if he acts improperly. But I admit that there is great force in the analogy to which Babu Amulya Dhone Addy has drawn our attention and I would, therefore, accept the proposal. I would ask your permission to make a draft clause in section 478 to-morrow. I cannot produce it immediately.

Mr. PRESIDENT: A new entry on page 204 of the Bill?

Mr. S. W. COODE: I mean a new entry and a penalty clause. I would definitely move it to-morrow.

Mr. PRESIDENT: Why cannot you accept the amendment then?

Mr. S. W. GOODE: I would accept it with the change that the penalty should be Rs. 100 which is what we provided in the case of licensed plumbers, and the words "in the absence of a written contract" be added after the words contained in the second column.

The following motion was then put and agreed to:—

"That in the table appended to clause 478 after the entry relating to section 318, sub-section (7), the following new entry be inserted in columns, 2, and 3, respectively, namely

1	2	3
Section 323, sub section (2).	Prohibition of licensed building surveyor demanding or receiving more than the prescribed fee in the absence of a written contract	One hundred rupees

CLAUSE 478.

Khan Bahadur Maulvi WASIMUDDIN AHMED: I beg to move that in clause 478 the entry relating to section 388(2) be omitted.

Mr. S. W. GOODE: Government accept the amendment

The motion was put and agreed to.

CLAUSE 479.

Babu JATINDRA NATH BASU: I move that clause 479 be omitted.

Clause 479 states that if there is a repetition of offences, then these repetitions will be punished not only by fines but also by imprisonment. As regards municipal offences, no system of law provides that a man should be sent to prison for committing a breach of the municipal regulations.

Babu SURENDRA NATH MALLIK: Question!

Babu JATINDRA NATH BASU: Mr. Mallik knows more of the Criminal Courts than I do. He may be smiling.

Mr. PRESIDENT: He did a great deal more than that. He said "question."

Babu SURENDRA NATH MALLIK: What about the Food Adulteration Act?

Babu JATINDRA NATH BASU: It has been recently stated by a very high authority after the inspection of prisons in this country that a great many persons who ought not to be in prison are sent to prison.

Babu SURENDRA NATH MALLIK: Yes, and there are many outside who ought to be there. (Laughter.)

Babu JATINDRA NATH BASU: We should take note of that statement as regards the offences for which persons are proposed to be sent to prison. This is a provision which is not in the existing law. You are taking this new power to send persons to prison. A man sells adulterated ghee or mustard oil and you fine him. Then if he repeats the offence, you send him to prison. This is a barbarous procedure. I should strongly protest against a provision of this kind in this Bill. Mr. Mallik, who claims a monopoly of knowledge in matters municipal in Calcutta, will probably concede this to me. I am also a resident of Calcutta and have experience of the quality of food-stuffs sold in Calcutta. Mr. Mallik cannot claim that he alone of all persons in the world has special knowledge of these matters. I move this amendment with a full sense of responsibility. I realize that it is necessary that we should have clean food-stuffs for our people, for the citizens. But in order to have clean food-stuffs it is barbarous to send people to jail. We know the class of people who sell food-stuffs in Calcutta. They do not know food analysis; many of them are quite ignorant people, small *modies;* they may very often sell food-stuffs without knowing that they are bad. If you send these persons to jail for such offences it is introducing a very barbarous procedure.

Rai Dr. HARIDHAN DUTT Bahadur: My friend has said that this is a barbarous procedure. Well, I do not know what is more barbarous—to manufacture mustard oil which is not fit even for ordinary idustrial purposes and sell that for human consumption, or the method suggested here? I can take my friend to a portion of Calcutta which is studded with mills which manufacture mustard oil mixed with all sorts of objectionable things. This mustard oil is sold all over Calcutta. It has been found absolutely unfit for human consumption. The Corporation could not do anything to put a stop to this because all they could do was to inflict a fine. These mill people are rich and they do not care whether they have to pay Rs. 1,000 or Rs. 5,000. If they can earn thousands by this sort of manufacture, they do not mind the fine. The only way by which this can be prevented is by insisting upon imprisonment of these people. They do not deserve any consideration. So far as human food is concerned, it should be our endeavour to see how this abominable practice can be effectively stopped, and to effectively stop it, imprisonment is absolutely essential.

The Hon'ble Sir SURENDRA NATH BANERJEA: I desire to oppose this amendment on behalf of Government. Long before this Bill was taken up I was approached by many respectable inhabitants of Calcutta in order to prevent the scandalous adulteration of food and

prevent it, by the infliction of imprisonment. The sellers of adulterated food make enormous profit and unless they are sent to prison they will continue to carry on their trade. Therefore, in the interests of the health of the city, I think, it is essential that this clause should remain and we should not accept the amendment which has been moved by my friend. We have to look to the health of our people. We have to put down (if I may use a strong word) ruthlessly any attempt to tamper with or adulterate food. I trust that my friend will not insist upon the amendment being put to the vote.

Babu SURENDRA NATH MALLIK: Something has been said about me. I want to make a personal explanation.

Mr. PRESIDENT: Is it worth while, Mr. Mallik.

Babu JATINDRA NATH BASU: We are not discussing Mr. Mallik personally.

Babu SURENDRA NATH MALLIK: Very well, Sir I will answer him outside this Chamber. (Laughter)

Mr. PRESIDENT: Order, order!

The motion was put and lost

CLAUSE 502.

The following amendment was, by leave of the Council, withdrawn:—

SHAH SYED EMDADUL HAQ: "That clause 502(2) be omitted."

CLAUSES 504 and 506.

Babu AMULYA DHONE ADDY: I beg leave to withdraw the following amendments:—

"That in clause 504, line 13, the words 'not less than' be omitted."

"That in clause 506, sub-clause (1), line 7, the words 'not less than' be omitted."

The amendments were, by leave of the Council, withdrawn.

SHAH SYED EMDADUL HAQ moved that in clause 506(1), penultimate line, for the word "thirty" the word "fifteen" be substituted.

Mr. S. W. GOODE: I do not understand the reason for the hon'ble member's motion because his proposal will make the position still more difficult for the poor ratepayers for whom he feels so much. Government must oppose this amendment.

The motion was then put and lost.

CLAUSE 510.

SHAH SYED EMDADUL HAQ moved that in clause 510, line 3, for the word "may" the word "shall" be substituted.

Babu AMULYA DHONE ADDY: I beg to support this amendment. It will appear from clause 510 that in any case the Corporation may pay compensation to any person who sustains damage by reason of the exercise of any of the powers vested under this Act.

The Corporation should be forced to make adequate compensation. Why should it be at the discretion of the Corporation to pay compensation for the damage caused to any person by the exercise of the powers vested under this Act or any rule or any by-law by an officer or servant of the Corporation. Why should a person be at the sweet will of the Corporation? It is an unwritten law by which he is entitled to get compensation for the damage which may be caused by the Corporation or any officer or servant of the Corporation. Therefore, for the sake of justice, I beg to support this amendment.

Mr. S. W. GOODE: It is obvious that a person must suffer some disadvantages by virtue of his living within a city. He must submit to certain restrictions on his liberties from which man in his natural state is free. From this point of view it is not unreasonable that the Corporation should have discretion in the matter of paying compensation. Where the Corporation are guilty of negligence, there is nothing to bar the injured person from going to the civil court and claiming compensation. We would, therefore, oppose the amendment.

A division was then taken in the Chamber.

The Ayes being 2 and the Noes 30, the motion was lost.

CLAUSE 522.

Babu HEM CHANDRA NASKER: I move that clause 522 be omitted.

There is no necessity of appointing municipal magistrates. The public opinion is against this. The municipal cases may be tried by magistrates trying other cases. So I appeal to the House to accept the amendment.

Babu JATINDRA NATH BASU: I move that for clause 522, the following be substituted, namely:—

"522. (1) All offences under this Act shall be tried by the Chief Presidency Magistrate or by such other Magistrate as the Chief Presidency Magistrate shall appoint with the sanction of the Local Government.

(2) The Chief Presidency Magistrate or such other Magistrate shall have jurisdiction over the whole of Calcutta for the trial of offences under this Act.

(3) The Corporation shall annually pay to the Local Government such sum as the Local Government may fix as contribution towards the expenditure incurred for the trial of offences under this Act."

The Bill provides that there will be certain officers known as Municipal Magistrates, before whom offences under the Act for breaches of the provisions of this Act or of any by-laws should be tried. What happens is this. The Corporation of Calcutta pays these Magistrates and the establishment under them, and the result is that the Magistrates come to think themselves unconsciously as employees of the Corporation and they are swayed by the feeling, of course unconsciously, that their pay and prospects are dependent upon the good wishes of the Corporation. They do their best to earn the good wishes by imposing as heavy fines as they can. They bring as much revenue as they can to the coffers of the Corporation. I do not say that this is being done intentionally. What I say is that they cannot avoid having the feeling (it may be that they do not actually desire to do that, but that they cannot but unconsciously do it) that unless they impose heavy fines there is no chance of their pay being increased and their conditions of service being improved. You do not find in places where municipal institutions prevail, this system known as Municipal Magistrates. Municipal offences are elsewhere tried by ordinary Magistrates. What I have sought to provide is that the Magistrates who will try these municipal offences should be under the Chief Presidency Magistrate and they will be on the ordinary staff of Magistrates under Government. As regards the expenses of the courts, what I suggest is that the local Government should lay down a certain sum on the basis of the estimates of the previous year and ask the Corporation to contribute that sum towards the expenses. In actual practice what happens is this. There are a large number of prosecutions, mostly of very poor people; those people who cannot fight these cases out or go to the expense of adducing evidence and things like that, suffer most. The Municipal Magistrates' Courts do not press heavily upon the rich because they can engage lawyers and barristers to defend them and they can go to the High Court for revision. Ordinarily what happens is that the rich are not at all affected by Municipal Magistrates, but it is the poor only that are affected because they cannot afford to engage lawyers, etc., and they cannot afford to go up to the High Court. We should in the administration of law avoid any impression in the minds of the public that certain officers are employed by the Corporation purposely to oppress the people. The acting Chairman of the Corporation will not deny that there is a very widespread idea amongst the poor people of Calcutta that these Municipal Magistrate's Courts are oppressive institutions. He knows that. The only way by which you can

remove the impression is by asking Government to appoint stipendiary Magistrates to sit in the Chief Presidency Magistrate's Court or in the ordinary criminal courts to try municipal cases and to make the Corporation pay an allotted sum every year to Government, so that the courts might be maintained out of that sum and the proceeds of the fines might not go direct to the coffers of the Corporation. On these grounds, I commend my amendment to the acceptance of this House.

Mr. D. J. COHEN: I beg to support the amendment of Mr. Basu and withdraw my amendment.

The following amendment was then, by leave of the Council, withdrawn:—

"That the following be substituted for clause 522, namely:—

(1) The Chief Presidency Magistrate shall from time to time arrange for the trial of offences under this Act and the rules and by-laws thereunder by such of the stipendiary Presidency Magistrates by turns as he may think fit subject to the control of the Local Government.

(2) Such Magistrates shall have jurisdiction over the whole of Calcutta.

(3) The Corporation shall pay to the Local Government a sum not exceeding Rs 3,000 a month to meet the additional cost which the Local Government may incur for making suitable provision for the trial of offences under the Act and the rules and by-laws thereunder as aforesaid."

SECRETARY to GOVERNMENT, JUDICIAL DEPARTMENT (Mr. C. N. Roy): I think Mr. Basu is under a misapprehension. The Municipal Magistrates are paid by the Municipality, but they are entirely under Judicial Department. They do not correspond with the Municipality in every case. Whether it be a question of money or of increment of pay they always come to the Judicial Department. For these reasons, I do not think the amendments should be accepted.

Babu SURENDRA NATH MALLIK: So far as this amendment of Babu Jatindra Nath Basu is concerned I suppose there are some difficulties of law because of Presidency Magistrate is a Municipal Magistrate with the powers of a Presidency Magistrate within the town of Calcutta. In the added area of Bhowanipore and Kidderpore he is merely a Magistrate of the first class and the appellate authority is the Sessions Judge at Alipore. He now combines practically two jurisdictions: one is the municipal jurisdiction and the other as a first class magistrate. This, of course, my friend does not know. If I say it is so, he says that I do claim knowledge in all matters municipal. Certainly I do, because I

think I have a right to claim it than a man who has spent all his life in his room adding more and more to his meals, and not in looking after the welfare of the city. You will see that Magistrate is a first class magistrate for the added area, that is what is now known as Bhowanipore and Kidderpore and he is a Presidency Magistrate only for the town under the Original Side of the High Court. Therefore, there are two jurisdictions. Now we are going to take in further areas from the mufassal. First of all we have got to consider whether we are going to localize all these things in the Presidency Magistrate's Court. This point I would like to place before the House. What we are trying as a matter of fact to do is that we should have smaller municipal courts for small offences one in the northern part of the city, say, Cossipore, and the other in the southern part, Garden Reach, in order to allow the people of those localities to come to these courts without much difficulty or inconvenience. The fine levied in petty cases is a paltry sum and the people who are punished with a fine may go away quickly and not have to drag a long distance and wait and wait for days before the case is taken up. But if you bring all these courts into one court the people will suffer. Therefore, what is laid down in the Act is perhaps the best The Bill lays down that the local Government may appoint one or more Magistrates for the trial of offences against this Act and the rules or by-laws made thereunder, and may prescribe the times and places at which such Magistrate or Magistrates shall sit for the despatch of business. Under this you can have honorary magistrates appointed at Cossipore or at Sealdah for the people of Maniktala to come and pay a paltry fine of, say, Rs. 2 for a petty offence and then go away. They will not have to waste a single day or a couple of days in coming to the Sealdah Court and dancing attendance there as they are to do in police cases. It will leave far more important cases to the Presidency Magistrate For these reasons a special court was created where the magistrates will not have other work to do. They will try only municipal cases and people will get away as quickly as possible. Now we are going to make Calcutta three times as big as it was before and if you want to localize all these officers in the Presidency Magistrate's court would it be a sensible thing at all? I ask the Council to consider this apart from the question of jurisdiction. I entirely differ from my friend, but I do not know if Mr. Goode is of that view. I think the best thing is to have one court for all bigger offneces and for all petty offences three or four small courts in three different parts of the town. It will give relief to the poor people otherwise a lot of harm will be done to them.

The motions were then put and lost.

The following amendment standing in the name of Mr. S. M. Bose, was in the absence of the member, deemed to be withdrawn :—

"That in clause 522(*2*), line 3, for the words 'leave-allowances' the words 'leave and other allowances' be substituted.

CLAUSE 525.

Rai FANINDRALAL DE Bahadur: I move that clause 525 (1)(b) be omitted.

The provisions of this clause and specially of the sub-clause under the consideration, seems to be absurd. It is well nigh possible to remember the details of some minor irregularities of offences, real or supposed, for longer than a few days after the occurrence; if under the circumstances he is brought to task after a month or two, there is practically no chance of his defending himself. The provisions of the sub-clause (b) further lengthen the period in which such charge can be instituted; it will make the case worse and no form of justice can be expected from such proceedings. It should therefore be deleted.

Babu AMULYA DHONE ADDY: I do not agree with my esteemed friend that this sub-clause should be deleted altogether, so, I beg to move that in clause 525(1)(b), line 1, the words "such date is not known or" be omitted.

There is no such provision either in the existing Act or in the Bombay Municipal Act. If the period of limitation runs from the date on which the commission or existence of such offence, provided it is not a continuous one, is first brought to the notice of the Executive Officer, it will be a dangerous weapon in the hands of the subordinate officers of the Corporation and the very object of the law of limitation will be frustrated.

Mr. S. W. COODE: If a person has committed an offence, it seems reasonable that he should suffer the consequences and it is also desirable that the State or the local authority which upholds the law should be given a wide latitude in the matter of prosecution. Why should prosecution be barred on the ground of limitation, especially having regard to the fact that many offences which are committed against Municipal law, are not brought to the light of day until they are accidentally discovered some time later. From this point of view I think that it is most essential that we should make the period of limitation as elastic as possible. I therefore oppose the amendment.

The motions were then put and lost.

Mr. S. W. COODE: I move that in clause 525(3), last line, after the word "six months" the words "or more" be inserted.

The motion was put and agreed to.

CLAUSE 533A.

The following amendments standing in the name of Rai Dr. Haridhan Dutt Bahadur were, in the absence of the member, deemed to be withdrawn:—

"That at the beginning of clause 533A(*1*), the words 'Notwithstanding anything contained in the Bengal Municipal Act, 1884' be inserted."

"That in clause 533A(*1*), line 4, for the words 'any specified area' the words 'any municipality or portion thereof' be substituted.

Mr. S. W. COODE: I move on behalf of the Hon'ble the Minister that for clause 533A(*3*), the following be substituted, namely,

"(*3*) When the said period has expired and the Local Government have considered the objections (if any) which have been submitted under sub-section (*2*), and if the Bengal Legislative Council has by a resolution recommended the extension, with or without modifications, the Local Government may issue the notification including such area or any portion thereof within the limits of Calcutta, to be administered by the Corporation under this Act, and such notification shall thereafter be of full force and effect, and Schedule I to this Act shall be deemed to be amended accordingly."

The motion was put and agreed to.

Rai FANINDRALAL DE Bahadur: I move that clause 538C be omitted. This is a departure from the present Act. The Corporation has already got power under Schedule V, rule 3. Hence, I think that it is unnecessary.

Babu JATINDRA NATH BASU: I support the amendment.

Mr. S. W. COODE: This clause is merely for convenience of drafting. It is most cumbrous in the course of every section to state that the Corporation may do so and so. We therefore provided a general clause which makes the drafting of individual sections more simple. I cannot imagine why the hon'ble members wish to delete this perfectly harmless clause.

The motion was put and lost.

Babu JATINDRA NATH BASU: I beg to withdraw my amendment.

The following motion was, by leave of the Council, withdrawn:—

"That for clause 543 (*1*)(*a*) and (*aa*) the following be substituted namely,—

'(*a*) all references to the Chairman or Vice-Chairman of the Corporation of Calcutta shall be construed as references to the Executive Officer.'"

Rai FANINDRALAL DE Bahadur: I beg to withdraw my amendment which runs as follows:—

"That clause 543(*l*) (*aa*) be omitted."

The amendment was, by leave of the Council, withdrawn.

Adjournment.

The Council was then adjourned till 3 P.M. on Wednesday, the 7th March, 1923, at the Town Hall, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE Council met in the Council Chamber in the Town Hall, Calcutta, on Wednesday, the 7th March, 1923, at 3 P.M.

Present:

The Hon'ble the President in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers, and 81 nominated and elected members.

Oath of allegiance.

The following member made an oath of his allegiance to the Crown:—

Mr. G. F. ROSE.

Mr. PRESIDENT (the Hon'ble Mr. H. E. A. Cotton): Order, order! In consolidation of the various rulings given from the Chair from time to time and for ready reference by members I have, in the exercise of my powers as President, directed that the following slip be inserted at page 219 of the Council Manual:—

"(9) In cases where the President is of opinion that the sense of the Council has been clearly indicated on a question and that it is unlikely that more than a very limited number of members would vote on the side by which the division is claimed, the President will, if he thinks proper, direct that the division be taken summarily in the Chamber. In such cases the division-bell will be rung for the usual period and the President will then direct members of the side claiming the division to rise in their seats. If less than ten members so rise, their names will be recorded and the number of members voting on the other side will then be taken by such members similarly rising. If as many as ten members rise on the side of the member who has claimed the division, the President will thereupon direct that the division be taken through the lobbies in accordance with the procedure indicated in rules (3) to (8)."

Members will observe that, in order to make it easy for the staff of the Department who have to record the names of those who rise on the side of the member claiming the division, I have ordered that the members shall rise in their seats.

The Calcutta Municipal Bill, 1921.

CLAUSE 3.

SECRETARY to GOVERNMENT, DEPARTMENT of SELF-GOVERNMENT (Mr. S. W. Goode): I move—

"That after clause 3(*54*) the following shall be inserted, viz:—

(*55*) 'registered medical practitioner' means a medical practitioner registered under the Bengal Medical Act, 1914."

The Council will remember that we accepted yesterday a modification of Dr. Dutt's amendment regarding the medical practitioner who is to be authorized to certify deaths. The Select Committee had, previous to this, omitted from the definitions the definition of a registered medical practitioner. It, therefore, becomes necessary now to restore that definition.

"That in clause 3 (*10*), lines 3 and 4, for the words 'within the limits of Calcutta by' the words 'in that Schedule on the issue of' be substituted."

"That the following be inserted as section 18A:—

'18A. (*1*) Subject to the provisions of any other law on the subject for the time being in force and notwithstanding anything to the contrary contained in section 18

(*i*) in any area which was included within the Maniktala Municipality or the Cossipore-Chitpur Municipality before the commencement of this Act and which under this Act is included in any of the constituencies mentioned in column I of Schedule IIIA—

(*a*) any person whose name was entered in the general register of voters prepared under the provisions of section 15 of the Bengal Municipal Act, 1884, and the rules made thereunder for the last election held in the said municipalities, and

(*b*) any female person who may apply to the Executive Officer claiming to be registered as an elector and stating her qualifications therefor, and who satisfies the Executive Officer that she possesses the qualifications prescribed in the case of males in the rules made under section 15 of the Bengal Municipal Act, 1884,

shall be deemed to be qualified as an elector for the purposes of the first general election to be held under the proviso to sub-section (*3*) of section 1, or any by-election held prior to the second general election in that constituency and shall have the rights and be subject to the disabilities of an elector under this Act;

(ii) in any area added to Calcutta which was included within the South Suburban Municipality before the commencement of this Act, and which under this Act is included in any of the constituencies mentioned in column 1 of Schedule IIIA—

(a) any person whose name was entered in the general register of voters prepared under the provisions of section 15 of the Bengal Municipal Act, 1884, and the rules made thereunder, for the last election held in the South Suburban Municipality, so far as the names in the said general register relate to the area added to Calcutta, and

(b) any female person, who may apply to the Executive Officer claiming to be registered as an elector and stating her qualifications therefor, and who satisfies the Executive Officer that she proposes the qualifications prescribed in the case of males in the rules made under section 15 of the Bengal Municipal Act, 1884,

if his or her qualifications arose by virtue of rates paid on account of a holding lying within (or his or her occupation of a holding within) the said area, shall be entitled to vote at the first general election referred to in this sub-section, or any by-election in the said constituency held prior to the second general election in that constituency, and shall have the rights and be subject to the disabilities of an elector under this Act; and

(iii) in any area added to Ca[illegible]ich was included in the Garden Reach Muni[illegible]before the commencement of this Act and whic[illegible]his Act is included in any of the constituencies mentioned in column I of Schedule IIIA—any male or female person, who, may apply to the Executive Officer claiming to be registered as an elector and stating his or her qualifi[illegible]ns therefor and who satisfies the Executive Off[illegible]he or she possesses the qualifications for voters [illegible]d in the case of males in the rules made under section 15 of the Bengal Municipal Act, 1884, shall be entitled to vote at the first general election referred to in this sub-[illegible]or any by-election in the said constituency held prior to the second general election in that constituency, and shall have the rights and be subject to the disabilities of an elector under this Act.

(2) The electoral rolls for the constituencies in which such areas are included shall be prepared so as to comprise the names of the male and female persons who may be found to be qualified as electors under the provisions of sub-section (1) in respect of the areas referred to in that sub-section, subject to the provisions of section 22 and the rules

framed thereunder, so far as may be necessary, in respect of all claims and objections to the entry of such names in the electoral rolls.

(3) Any person entitled to vote under this section shall be deemed to be registered on the electoral roll of the Corporation and, subject to the provisions of this chapter, to be eligible for election as a Councillor.

(4) The Local Government may issue such orders as they may consider necessary to give effect to the provisions of this section in regard to the holding of the first general election or any by-election of any constituency referred to in sub-section (1) and in regard to any matters incidental or ancillary thereto.' "

This clause is intended to provide for the franchise of persons residing in the municipalities which will be amalgamated with Calcutta.

" That in sub-clause (45) of clause 3, after the word 'used' the words ' or damages on account of the occupation of such land or building ' be inserted."

This is an amendment to meet the point raised by Raja Reshee Case Law.

"That for Schedule I the following be substituted, namely:—

SCHEDULE I.

[*See section 3, clause (10), and section 473.*]

'Calcutta is the area included within the following boundaries except that it does not include:—

(1) Fort William,

(2) the Esplanade, and

(3) that part of Hastings north of the south edge of Clyde Row and Strand Road to the river bank.

Boundaries.

A line drawn along the outer edge of Paramanik Ghat Road, Cossipur Road, Kasi Nath Dutt Road, Kali Charan Ghose Road, and Ramkrishna Ghose Lane; thence southward along the western edge of the Eastern Bengal Railway to the point where the boundary line meets the New Canal; thence eastward along the southern bank of the New Canal to the point where it meets the Belliaghata Canal; thence westward along the southern bank of the Belliaghata Canal to the point where it meets Pagladanga Road; thence along the northern and eastern edge of Pagladanga Road to the point where it meets Chingrihatta Road; thence along the southern edge of Chingrihatta Road to the point where it meets Tangra Road, South; thence along the eastern and southern edge of Tangra Road, South to the point where it meets Topsia Road, North; thence along the eastern and southern edge of Topsia Road, North, to the

point where it meets Hughes Road; thence along the eastern edge of Hughes Road to the point where the Town and Suburban High Level Sewers meet; thence along the southern edge of the new road to the point where it meets Topsia Road, South; thence along the southern edge of Topsia Road, South to the point where it meets Tiljala Masjidbari Lane; thence along the eastern and southern edge of Tiljala Masjidbari Lane to Tiljala Road, formerly known as Maulvi Ahmad Khan Bahadur's Road; thence westward along a line drawn in continuation of the southern edge of Tiljala Masjidbari Lane to the Eastern Bengal Railway line; thence southward along the western edge of the line of that Railway and westward along the northern edge of the Budge Budge Branch of that Railway to Russa Road, South; thence southward along the eastern edge of Russa Road, South to the point where it meets Tollygunge Circular Road; thence along the southern boundary of Tollygunge Circular Road to the point where it meets the southern boundary of the Port Commissioners' land acquired for the purpose of constructing King George's Dock and its connected works, and thence along the southern boundary of the Port Commissioners' land above referred to, as it stands at the commencement of this Act up to the point where it meets Diamond Harbour Road; thence along the eastern boundary of Diamond Harbour Road to the point where it meets the southern boundary of the Port Commissioners' land above referred to; thence along the southern and western boundaries of the said land up to the point where it meets the village Singarhatty; thence along the northern border of villages Belpukuria, Ramdashutty, Makalhutty and Kismat Dum-Dum till it meets the Government embankment; and thence westward along the Government embankment till it meets the River Hooghly; thence along the River Hooghly to the western terminus of the outer edge of the Paramanik Ghat Road.' "

CLAUSES 63, 73, 83, 279, 280, 316, 468, AND 478.

"That in clause 63(*2*), line, 2, the words 'elected under section 8A' be omitted."

"That in clause 73(*1*), line, 2, the words 'elected under section 8A' be omitted."

"That in clause 83(*2*), line 3, for the words 'the first and second provisos' the words 'the proviso' be substituted."

"That in clause 279(*1*), line 6, after the word and figures 'Schedule XIV' the words 'or of any by-law under this Act' be inserted."

"That in clause 279(*2*), line 11, after the word and figures 'Schedule XIV' the words 'or of any by-law made under this Act' be inserted."

"That in clause 280(*2*), line 6, after the word and figures 'Schedule XIV' the words 'or of any by-law made under this Act' be inserted."

"That in clause 316, line 2, for the words, figures and brackets, 'section 315, sub-section (*1*),' the following be substituted namely—

'sub-section (*1*) of that section.' "

"That clause 468 (*42*) be omitted."

The object of this change is this. Under the Cinematograph Act provision is made for the licensing and control of operators of cinemas, and it is undesirable that there should be two co-ordinate authorities regulating the qualifications of these operators. It is, therefore, proposed that this clause be omitted.

"That in the table appended to clause 478, in column 2, line 1, the words 'owner or' against the entry relating to clause 171, be omitted."

"That in the table appended to clause 478, in column 2, line 1, the words 'owner or ' against the entry relating to clause 181, be omitted."

"That in clause 478, in the second column of the entry relating to section 275, after the word 'rules' the words 'and by-laws' be inserted."

"That in clause 478, in the second column of the entry relating to clause 341, the words 'or occupiers' be omitted."

"That in clause 478, the entry relating to clause 359 be omitted."

The motions were put and agreed to.

Babu SURENDRA NATH MALLIK: I move that in Schedules III and IIIA the wards be re-numbered and arranged serially as follows:—

"*Numbering of Wards.*

		Ward No.
Shampukur	...	1
Kumartuly	...	2
Burtola	...	3
Sukeas Street	...	4
Jorabagan	...	5
Jorasanko	...	6
Barabazar	...	7
Collootola	...	8
Muchipara	...	9
Bow Bazar	...	10
Puddapukur	...	11
Waterloo Street	...	12
Fenwick Bazar	...	13
Taltala	...	14
Kalinga	...	15
Park Street	...	16
Bamun Bustee	...	17
Tangra	...	18
Entally	...	19
Beniapukur	...	20
Ballygunge	...	21
Bhowanipur	...	22
Alipore	...	23

		Ward No.
Ekbalpore	...	24
Watgunge and Hastings	...	25
Garden Reach	...	26
Tollygunge	...	27
Belliaghatta	...	28
Maniktala	...	29
Belgachia	...	30
Satpukur	...	31
Cossipore	..	32

The motion was put and agreed to.

SCHEDULE VI.

Mr. S. W. GOODE: I move that Schedule VI do take the following form:—

"Wards for purposes of valuation.

(See section 135.)

Serial No. of Ward.—1.
Name of Ward.—Shampukur.
Boundaries of Ward—

On the north.—The Circular Canal.
On the south.—Ultadingi Road and Grey Street.
On the east.—The Circular Canal and Upper Circular Road.
On the west.—Upper Chitpur Road and the Chitpur Bridge Approach.

Serial No. of Ward.—2.
Name of Ward.—Kumartuli.
Boundaries of Ward—

On the north.—The River Hooghly.
On the south.—Nimtala Ghat Street and the road leading to Nimtala Ghat.
On the east.—Upper Chitpur Road and the Chitpur Bridge Approach.
On the west.—The River Hooghly.

Serial No. of Ward.—3.
Name of Ward.—Bartola.
Boundaries of Ward—

On the north.—Grey Street and Ultadingi Road.
On the south.—Beadon Street and Maniktala Road.
On the east.—The Circular Canal.
On the west.—Upper Chitpur Road and Upper Circular Road.

Serial No. of Ward.—4.
Name of Ward.—Sukeas Street.
Boundaries of Ward—

On the north.—Beadon Street and Maniktala Road.
On the south.—Machua Bazar Street and Gas Street.
On the east.—The Circular Canal and Upper Circular Road.
On the west.—Cornwallis Street.

Serial No. of Ward.—5.
Name of Ward.—Jorabagan.
Boundaries of Ward—

On the north.—Nimtala Ghat Street and the road leading to Nimtala Ghat.
On the south—Cotton Street and Mirbahar Ghat Street.
On the east.—Upper Chitpur Road.
On the west.—The River Hooghly.

Serial No. of Ward.—6.
Name of Ward.—Jorasanko.
Boundaries of Ward—

On the north.—Beadon Street.
On the south.—Machua Bazar Street.
On the east.—Cornwallis Street.
On the west.—Upper Chitpur Road.

Serial No. of Ward.—7.
Name of Ward.—Bara Bazar.
Boundaries of Ward—

On the north.—Mirbahar Ghat Street and Cotton Street.
On the south.—Lal Bazar Street, Dalhousie Square, North, Fairlie Place and a line drawn in continuation of Fairlie Place to the river bank.
On the east.—Lower Chitpur Road.
On the west.—The River Hooghly.

Serial No. of Ward.—8.
Name of Ward.—Collootola.
Boundaries of Ward—

On the north.—Machua Bazar Street.
On the south.—Bow Bazar Street.
On the east.—College Street.
On the west.—Lower Chitpur Road.

Serial No. of Ward.—9.
Name of Ward.—Muchipara.
Boundaries of Ward—

On the north.—Machua Bazar Street and Gas Street.
On the south.—Bow Bazar Street and Baliaghatta Road including the new diversion.

On the east.—The Circular Canal.
On the west.—College Street.

Serial No. of Ward.—10.
Name of Ward.—Bow Bazar.
Boundaries of Ward—
On the north.—Bow Bazar Street.
On the south.—Dharamtala Street.
On the east.—Wellington Street.
On the west.—Bentinck Street.

Serial No. of Ward.—11.
Name of Ward.—Paddapukur.
Boundaries of Ward—
On the north.—Bow Bazar Street.
On the south.—Dharamtala Street.
On the east.—Lower Circular Road.
On the west.—Wellington Street.

Serial No. of Ward.—12.
Name of Ward.—Waterloo Street.
Boundaries of Ward—
On the north.—Lal Bazar Street, Dalhousie Square, North, Fairlie Place and a line drawn in continuation of Fairlie Place to the river bank.
On the south.—Esplanade East, Lawrence Road and Esplanade West.
On the east.—Bentinck Street.
On the west.—The River Hooghly.

Serial No. of Ward.—13.
Name of Ward.—Fenwick Bazar.
Boundaries of Ward—
On the north.—Dharamtala Street.
On the south.—Kyd Street and Ripon Street.
On the east.—Wellesley Street.
On the west.—Chowringhee Road and part of Free School Street.

Serial No. of Ward.—14.
Name of Ward.—Taltala.
Boundaries of Ward—
On the north.—Dharamtala Street.
On the south.—Ripon Street.
On the east.—Lower Circular Road.
On the west.—Wellesley Street.

Serial No. of Ward.—15.
Name of Ward.—Kalinga.
Boundaries of Ward—
On the north.—Ripon Street.
On the south.—Theatre Road.

On the east.—Lower Circular Road.
On the west.—Wellesley Street and Wood Street.

Serial No. of Ward.—16.
Name of Ward.—Park Street.
Boundaries of Ward—

On the north.—Kyd Street and Ripon Street.
On the south.—Theatre Road.
On the east.—Wood Street and Wellesley Street.
On the west.—Chowringhee Road.

Serial No. of Ward.—17.
Name of Ward.—Bamun Bustee.
Boundaries of Ward—

On the north.—Theatre Road.
On the south.—Lower Circular Road.
On the east.—Lower Circular Road.
On the west.—Chowringhee Road.

Serial No. of Ward.—18.
Name of Ward.—Tangra.
Boundaries of Ward—

On the north.—Belliaghatta Canal and Pagladanga Road.
On the south—Tiljala Road and Topsia Road, South.
On the east.—Pagladanga Road, Chingrihatta Road, Tangra Road, South, Topsia Road, North, Hughes Road, and the new road connecting Hughes Road and Topsia Road, South, where the Town and Suburban High Level Sewers meet.
On the west.—Kakurgachi Chord and the Eastern Bengal Railway.

Serial No. of Ward.—19.
Name of Ward.—Entally.
Boundaries of Ward—

On the north.—Belliaghatta Road, including the new diversion and the Circular and Belliaghatta Canals.
On the south.—Beniapukur Road, Phulbagan Road, South Road and Christopher Road.
On the east.—Kalkurgachi Chord and the Eastern Bengal Railway.
On the west.—Lower Circular Road.

Serial No. of Ward.—20.
Name of Ward.—Beniapukur.
Boundaries of Ward—

On the north.—Beniapukur Road, Phulbagan Road, South Road and Christopher Road.
On the south.—The Calcutta Improvement Trust new 100-ft road running from Beckbagan Lane and Lower Circular Road corner and meeting the Park Circus, the new 100-ft. Calcutta Improve-

ment Trust Road from the Park Circus meeting Darga Road, and its continuation, the new 60-ft. Calcutta Improvement Trust Road to the Eastern Bengal Railway.

On the east.—Kakurgachi Chord and the Eastern Bengal Railway.

On the west.—Lower Circular Road.

Serial No. of Ward.—21.

Name of Ward.—Ballygunge.

Boundaries of Ward—

On the north.—Lower Circular Road, the Calcutta Improvement Trust new 100-ft. road running from Beckbagan Lane and Lower Circular Road corner and meeting the Park Circus, the new 100-ft. Calcutta Improvement Trust Road from the Park Circus meeting Darga Road and, in its continuation, the new 60-ft. Calcutta Improvement Trust Road from Darga Road to the Eastern Bengal Railway, thence along Tiljala Road to the point where it meets Topsia Road, South.

On the south.—Hazra Road, Bondel Road and a line drawn straight from the Eastern Bengal Railway to the southern edge of Tiljala Masjidbari Lane, and the southern edge of Tiljala Masjidbari Lane.

On the east.—Topsia Road, South, Tiljala Masjidbari Lane and the Eastern Bengal Railway line.

On the west.—Lansdowne Road.

Serial No. of Ward.—22.

Name of Ward.—Bhowanipur.

Boundaries of Ward—

On the north.—Lower Circular Road.

On the south.—Hazra Road, Nepal Bhattacharji Street to Tolly's Nullah.

On the east.—Lansdowne Road and Russa Road, South.

On the west.—Tolly's Nullah and Zeerut Bridge Approach.

Serial No. of Ward.—23.

Name of Ward.—Alipore.

Boundaries of Ward—

On the north.—Tolly's Nullah.

On the south.—Tollygunge Circular Road and the southern boundary of the land acquired by the Port Commissioners for the Dock extension as existing at the time of the commencement of the Act up to the point where it meets Diamond Harbour Road.

On the east.—Tolly's Nullah.

On the west.—Diamond Harbour Road and Kidderpore Bridge Approach.

Serial No. of Ward.—24.
Name of Ward.—Ekbalpore.
Boundaries of Ward—

On the north.—Circular Garden Reach Road.
On the south.—Shahapur Road, Guragacha Road and Taratala Road.
On the east.—Diamond Harbour Road.
On the west.—Hide Road.

Serial No. of Ward.—25.
Name of Ward.—Watganj and Hastings.
Boundaries of Ward—

On the north.—Clyde Road, Strand Road and a line drawn in continuation of the south side of Strand Road to the river and the River Hooghly.
On the south.—Circular Garden Reach Road and the southern edge of the line of old Taratala Road.
On the east.—St. George's Gate Road, the Kidderpore Bridge Approach and Hide Road.
On the west.—The western edge of the line of old Taratala Road and a line in continuation thereof up to the River Hooghly.

Serial No. of Ward.—26.
Name of Ward.—Garden Reach.
Boundaries of Ward—

On the north.—Shahapur Road, Goragacha Road, the southern edge of the line of old Taratala Road and the River Hooghly.
On the south.—The southern border of the land acquired by the Port Commissioners for the Dock extension as existing at the time of the commencement of the Act; westward along the northern border of villages Daulatpur, Krishnapur, Gongoa, Belpookaria, Ramdashutty, Makalkutty and Kismat Dum Dum till it meets the Government embankment.
On the east.—Diamond Harbour Road, the western edge of the line of old Taratala Road and a line drawn in continuation thereof up to the River Hooghly.
On the west.—The western border of the land acquired by the Port Commissioners for the Dock extension as existing at the commencement of the Act up to the village Singerhutty; along the Government embankment till it meets the River Hooghly.

Serial No. of Ward.—27.
Name of ward.—Tollygunge.
Boundaries of Ward—

On the north.—Bondel Road, Haxra Road, Nepal Bhattacharji Street to Tolly's Nullah.
On the south.—Tollygunge Circular Road and the Eastern Bengal Railway, Budge Budge Branch.

On the east.—Russa Road, South, and the Eastern Bengal Railway line.

On the west.—Russa Road, South, and Tolly's Nullah.

Serial No. of Ward.—28.
Name of Ward.—Beliaghatta.
Boundaries of Ward—

On the north.—Norkeldanga Main Road.
On the south.—Beliaghatta Canal.
On the east.—New Canal.
On the west.—Circular Canal.

Serial No. of Ward.—29.
Name of Ward.—Maniktala.
Boundaries of Ward—

On the north.—New Canal.
On the south.—Narkeldanga Main Road.
On the east.—New Canal.
On the west.—Circular Canal.

Serial No. of Ward.—30
Name of Ward.—Belgachia.
Boundaries of Ward—

On the north.—Paikpara Road and Belgachia Road.
On the south.—The Circular Canal and the New Canal.
On the east.—Eastern Bengal Railway.
On the west.—Barrackpore Trunk Road.

Serial No. of Ward.—31.
Name of Ward.—Satpukur.
Boundaries of Ward—

On the north.—Kali Charan Ghose Road and Ram Krishna Ghose Lane.
On the south.—Paikpara Road and Belgachia Road.
On the east.—Eastern Bengal Railway.
On the west.—Barrackpore Trunk Road.

Serial No. of Ward.—32.
Name of Ward.—Cossipore.
Boundaries of Ward—

On the north.—Pramanick Ghat Road, Cossipore Road and Kasinath Dutt Road.
On the south.—Circular Canal.
On the east.—Barrackpore Trunk Road.
On the west.—The river Hooghly."

The motion was put and agreed to.

SCHEDULE V.

The following motion standing in the name of Mr. Abdur Raheem was, in the absence of the member, deemed to be withdrawn:

"That in Schedule V, rule 1, in column 3 opposite items 1 and 2, for the words 'five hundred rupees' and 'two hundred and fifty rupees' the words 'one thousand rupees' and 'five hundred rupees' respectively, be substituted."

Babu SURENDRA NATH MALLIK: I move that—

"In Schedule V, rule 1, in class III, after item 4, the following be inserted, namely:—

'4A.	Landholder, *i.e.*, any owner of any land or building who lets, or any lessee who sublets,	any land or building in Calcutta yielding, on the basis of the annual valuation made under Chapter X, an annual rent, in respect of one or more such premises, of Rs. 50,000 and upwards.	Two hundred rupees.' "

"In Schedule V, rule 1, in class IV, after item 15, the following item be inserted, namely:—

'15A.	Landholder, *i.e.*, any owner of any land or building who lets, or any lessee who sublets,	any land or building in Calcutta yielding, on the basis of the annual valuation made under Chapter X, an annual rent, in respect of one or more such premises, of Rs. 15,000 or upwards, but not exceeding Rs. 50,000.	One hundred rupees.' "

"In Schedule V, rule 1, in class V, after item 35, the following item be inserted, namely:—

'35A.	Landholder, *i.e.*, any owner of any land or buildin who lets, or any lessee who sublets,	any land or building in Calcutta yielding, on the basis of the annual valuation made under Chapter X, an annual rent, in respect of one or more such premises, of Rs. 7,500 or upwards, but not exceeding Rs. 15,000.	Fifty rupees,' "

"In Schedule V, rule 1, in class VI, after item 58, the following item be inserted, namely:—

'58A.	Landholder, *i.e.*, any owner of any land or building who lets, or any lessee who sublets,	any land or building in Calcutta yielding, on the basis of the annual valuation made under Chapter X, an annual rent, in respect of one or more such premises, of Rs. 3,000 or upwards, but not exceeding Rs. 7,500.	Twenty-five rupees,' "

The question is the same in all these amendments. The point that I have to place before the Council is that we have rates and taxes. The rates are those which are levied on buildings and lands, and the taxes are those for professions, trades, callings, etc. The idea underlying these amendments is that we have got various classes of people from whom we realise license taxes for the professions or callings they carry on. We have got lawyers, doctors, brokers, engineers and even hawkers. Our range is very large, to which we have added some new items of business. Here is a proposition that landholders should also be included in that. I do it in pursuance of a resolution of the Corporation whereby it was accepted that a landholder, i.e., any owner of any land or building who lets, or any lessee who sublets, any land or building yielding on the basis of the annual valuation made under Chapter X an annual rent in respect of one or more such premises less than Rs 3,000 be exempted, that is practically those who get Rs. 250 per month from house rent and live upon that should, we propose, be exempted from this license tax. But we propose, and the Corporation suggested, that for incomes upwards of Rs. 3,000 there should be a license tax which should work on a graduated scale, namely, from above Rs. 3,000 to Rs. 7,500 per annum, that is, if the income be Rs. 625 a month, then the license tax should be Rs. 25 per annum, that is a little more than Rs. 2 per month. From Rs. 7,500 to Rs. 15,000, the tax will be Rs. 50, per annum or Rs. 6-4-0 per month. From Rs. 15,000 to Rs. 50,000, the tax will be Rs. 100 per annum, and above Rs. 50,000, idea is to charge a professional tax of Rs. 200 per annum. The idea is to have a graduated scale beginning from Rs. 25 and ending with Rs. 200 according to the amount of rent which the particular landlord gets. The reason for levying this tax is that we levy this tax upon all kinds of professions and callings, and as will appear from the Schedule, we have not even excluded the fortune-tellers or the snake-charmers, and even those who carry a basket of blackberries and earn only 8 annas a day. Now the question is whether landholders do carry on a profession as such, and if so, whether there should be a professional tax on them. No doubt, it would be resented by the landholders, known or unknown, and there is no question about that. But the question is whether the Corporation should not have this additional source of revenue open to it as there is a legitimate room for extension in this direction. There cannot be any question that a person who lives on the income of his lands or house properties in Calcutta is one who can be said to be carrying on the profession or calling of a landholder; there is no reason why it should be supposed that his profession is not that of a landlord. If his profession is that of a landlord, the question arises whether he should take out a license for his profession. Objections have been raised on the ground that it is not a profession. If the principal means of a man's subsistence is not his profession, trade or calling, I do not know what is. It may be said that

he pays municipal taxes and income tax, etc. To that my reply is that it does not at all take away the merits of my contention. Take the case of a lawyer, a doctor, engineer or a broker; if he is a man living in Calcutta and earning Rs. 50,000 a year, let us say, he is called upon to pay income tax and super tax, etc; he pays it in the same way as a landlord does, and he also pays other taxes the same as the landlord. Then this doctor, lawyer, merchant or broker has got a motor or carriage of his own; he has to take out a license for that, just as the landlord has to do. Up to this they are on the same level. Over and above all these, the lawyer, broker, doctor or merchant and other professional people, including the snake-charmer and also the follower of that questionable trade—the fortune-teller—all these people have got to pay additional tax for carrying on their profession. Is it not proper that these people should also be called upon to pay a professional tax on a graded system, leaving out those altogether whom the Corporation desire, to exempt, those who have an income of Rs. 250 per month from house property; the next higher class from Rs. 3,000 to Rs. 7,500 pay Rs. 25, that is, Rs. 2 a month ;the next grade is Rs. 7,500 a year up to Rs. 15,000, that is Rs. 50 per year, or Rs. 4 per month; the next grade from Rs. 15,000 to Rs. 50,000, that is Rs. 100 per year, about Rs. 8 a month; over and above this Rs. 50,000, whatever that may be, he has got to pay Rs. 200 a year, or about Rs. 16 pea month. Therefore, my submission is this: looking at the question from the point of view, that when we levy a professional tax which touches even such poor people as the street hawker and the fortune-teller or the petition-writer who sits in the New Market and elsewhere and writes petitions, for their trade or calling or profession or whatever you choose to call it, is it fair,—leaving out all personal questions—that other men who similarly earn their bread by virtue of the fact that they carry on the business of a landlord, that they should not be called upon to pay a license tax. If, on this principle, that taxation seems justifiable, then I respectfully submit that the gradation which has been suggested by the Corporation is not at all unreasonable; I have mentioned this gradation already. Therefore, I respectfully submit that on all these grounds there is a very strong case made out why we should make these landlords take out a license for their profession, trade or calling, which I maintain it is. If there is any doubt that it is not a profession or trade or calling, that is another matter, but in Calcutta particularly, it is well known that it is a profession and a profession with a vengeance; there are many people who take a lease of a property and make about a lakh of rupees out of it. All I want is that they should take out a license for this profession. [A voice: "Is there any precedent?"] We are now making a law, there is no question of precedent. I do not know if there is any precedent in this world for taking out a license fee from fortune-tellers or people of that description. I am unable to give instances of any other municipality where this is

done, but this is being done here as a source of income to the Corporation and I submit there is no reason why, if these license fees are going to be kept in the schedule, these landlords should be excluded altogether. Apart from any question of personal feeling in the matter, let us look at it merely as a question of policy. If you are going, as you are doing for the last 30 years, to ask for professional taxes as you call them, for trades, callings or professions, even from the meanest and poorest of persons who carry on some business in this town of Calcutta, is there any reason why the landlord should not be called upon to pay this tax as well?

It may be said that they pay in other ways, that objection has been raised, but I submit other persons also pay in the same way, as I have already stated, so I need not repeat it now. Apart from the question of personality or anything of the kind, is there any reason why on the basis on which we have drawn up this schedule with regard to license fees for trades, professions and callings, landlords should not be called upon to pay a tax for their profession? The gradation that has been suggested is not one that should be rejected.

This is what I have got to submit on this question.

Raja RESHEE CASE LAW: I rise to oppose this amendment. It is a novel motion. I have never in my life heard that a landlord can be brought to the same level as a broker or a hawker. Of course there are land grabbers as every one will admit, but they have never been considered in that way. The Chairman of the Calcutta Municipality is not satisfied that the landlords of Calcutta contribute in rates and taxes nearly 70 per cent, or about 70 lakhs of rupees to the income of the Corporation; but he needs must come down upon them with an amendment making them liable to pay to the Corporation a sum up to Rs. 100 if their income ranges from Rs. 3,000 to over Rs. 50,000 per annum. I think this is very unjust, and as there is no such precedent anywhere in the world, I hope it will not be accepted by the Council.

Babu AMULYA DHONE ADDY: I oppose the amendment. I fear it will probably be said that I do so because I am one of the landlords. But, Sir, being one of them, I know their grievances. The question is whether such a tax should be levied upon them or not. It will appear from the schedule that under the existing Act a vakil of the High Court of Calcutta is to pay a license fee of Rs. 50 irrespective of his income, and even if his income be more than Rs. 50,000 he is to pay only Rs. 50. However, our esteemed friend Mr. Mallik, who was a leading member of the Alipore Bar, sought to redress their grievances, and he said that as there were a large number of vakils whose income was only nominal, the amount payable by them might be reduced. As will appear from the schedule of the Bill, in the case of those vakils who do not pay any income tax, the amount has been reduced from Rs. 50 to Rs. 25 per

annum. Therefore, Sir, as voicing the grievances of the landholders I cannot but oppose the amendment.

Sir, the landholders of Calcutta have already been suffering much owing to the operation of the Calcutta Rent Act. It may be said that the Act would last for another year only, but there is no knowing that it will not last for ever. I do not find any such provision in the Madras Act, Bombay Act or any Municipal Act in any of the provinces of India or even in the English County Council Act. The Acting Chairman says that even the hawkers will have to pay a license fee of Re. 1 per annum. I am strongly opposed to it and I am really sorry that my objection has been disallowed by the Select Committee. So far as this is concerned, it was thoroughly discussed in the Select Committee and was rejected by an overwhelming majority of votes. Sir, the landholders of Calcutta pay very heavy rates and though the maximum rate is 23 per cent., and I am afraid that, in course of time, the Corporation shall be under the painful necessity of increasing the rates. In addition to this consolidated rate the landholders have to pay a transfer duty of 2 per cent. I beg to submit that the money which they invest in land and buildings is investment money. If a man invests a lakh of rupees in buildings and has to pay this tax, in addition to his income-tax and Municipal rates, it will be a source of great hardship to him. But if a man invests his money in loans on landed property or any other business he shall have to pay income-tax.

Babu Suerendra Nath Mallik has stated that lessees make high profits by subletting houses. Is that the reason why all landholders should be forced to pay this tax?

Babu SURENDRA NATH MALLIK: May I rise to a point of order, Sir? My friend has not put the case properly. I did not say that all landholders must pay this tax. Those whose yearly income does not exceed Rs. 3,000 have been exempted.

Babu AMULYA DHONE ADDY: Then, Sir, there is another danger. If the landholder has in the end to pay these taxes, he will naturally increase the rent of his houses and his *bustee* land, and it is the poor people who will have to suffer. I may also say that under this schedule the owner of a market shall have to pay a license fee in addition to the consolidated rate.

With these remarks I beg to say that the amendment should not be accepted.

MINISTER in charge of DEPARTMENT of LOCAL SELF-GOVERNMENT (the Hon'ble Sir Surendra Nath Banerjea): I fear that I must oppose the amendment of my friend. The matter was thoroughly discussed in the Select Committee and the Select Committee by a large majority came to the conclusion that landlords should not be further taxed for belonging, as was stated to a particular profession. I

venture to join issue with my friend, Mr. Mallik, in the view that landlordism is a profession; it is really [illegible]ment and as such it is taxed already. My friend has drawn a c[illegible]parison between the professional tax levied on the lawyer and the tax proposed to be levied on the landlord, but there is an essential and fundamental difference between the two. In the case of the landlord whom you propose to tax you want to tax him upon an income which is already rated; in the case of the lawyer you tax him on an income which has not been rated; that makes a difference.

Babu SURENDRA NATH MALLIK: He pays income tax.

The Hon'ble Sir SURENDRA NATH BANERJEA: That is another matter, not municipal tax. This stands on a wholly different footing. As has been pointed out by Mr. Addy, with whom I am not generally in agreement, it is a tax which is not levied by any other municipality.

Having regard to these circumstances, and to the deliberate opinion recorded by the Select Committee, I must on behalf of Government oppose this amendment.

Babu SURENDRA NATH MALLIK: May I explain, with regard to the rating business——

Mr. PRESIDENT: Yes, if it is a personal explanation; otherwise not.

Babu SURENDRA NATH MALLIK: No, it is not a personal explanation.

Mr. PRESIDENT: Then I am afraid I cannot allow you to speak.

The first motion standing in the name of Babu Surendra Nath Mallik was then put and a division taken with the following result:—

AYE.

Mallik, Babu Surendra Nath.

NOES.

Addy, Babu Amulya Dhone.
Afzal, Nawabzada K. M., Khan Bahadur.
Ahmed, Maulvi Rafi Uddin.
Ahmed, Mr. M.
Ali, Munshi Amir.
Ali, Munshi Ayub.
Azam, Khan Bahadur Khwaja Mohamed.
Banerjea, the Hon'ble Sir Surendra Nath.
Barua, Rai Sahib Panchanan.
Basu, Babu Jatindra Nath.
Beatley, Dr. C. A.
Birley, Mr. L.
Chaudhuri, Babu Kishori Mohan.
Chaudhuri, Rai Harendranath.
Chaudhuri, the Hon'ble the Nawab Saiyid Nawab Ali, Khan Bahadur.
Cohen, Mr. E. J.
Das Gupta, Rai Bahadur Nihoran Chandra.
De, Mr. K. C.
De, Rai Bahadur Panindralal.
Deare, Major-General S. H.
Donald, the Hon'ble Mr. J.
Donovan, Mr. J. T.
Dosa, Rai Bahadur Pyari Lal.
Emerson, Mr. T.
Ghose, Rai Bahadur Jogendra Chunder.
Goode, Mr. S. W.
Hornell, Mr. W. W.
Huntingford, Mr. G. T.
Karim, Maulvi Fazal.
Khan, Maulvi Md. Rafique Uddin
Lagr, Raja Roshee Case.
Marr, Mr. A.
McAlpin, Mr. H. C.
Mitter, the Hon'ble Mr. P. C.
Mukerjea, Mr. S. C.

Mukhopadhaya, Babu Sarat Chandra.
Philip, Mr. J. Y.
Rahim, the Hon'ble Sir Abd-ur-.
Ray, Kumar Shib Shekhareswar.
Robertson, Mr. F. W.
Rose, Mr. G. F.
Roy, Babu Jogendra Krishna.
Roy, Mr. Bijoyprasad Singh.
Roy, Mr. G. N.
Roy, Mr. J. N.
Sarkar, Babu Jogesh Chandra.
Sen, Babu Mani Lal.
Sinha, Babu Surendra Narayan.
Stephenson, the Hon'ble Mr. H. L.
Stuart-Williams, Mr. S. C.

The Aye being 1 and the Noes 50, the motion was lost.

The other three motions standing in the name of Babu Surendra Nath Mallik were not put, as they were covered by the previous decision of the Council.

The following amendment standing in the name of Babu Amulya Dhone Addy was, by leave of the Council, withdrawn:—

"That in Schedule V, rule 1, item 8, column 2, line 2, the word 'market' be omitted."

Babu AMULYA DHONE ADDY: May I have permission to move Nos. 711 and 715 together? They relate to the same subject.

Mr. PRESIDENT: You may.

Babu AMULYA DHONE ADDY: I beg to move that in Schedule V, rule 1, item 10 be omitted, and that in Schedule V, rule 1, item 26 be omitted.

It will appear from this Schedule that the proprietor of a newspaper periodical or journal would be called upon to take out a license and pay a fee of Rs. 50 or Rs. 100 per annum. I beg to submit that there is no such provision under the existing Act. A newspaper is an organ through which we are in a position ta ascertain the views and grievances of the public at large, and it is also through these newspapers that people also know the views of the Government. These papers help not only the people but also the Government, therefore it is not desirable that the proprietors of these newspapers should be taxed; some of these papers, so far as I know, are not paying; therefore, apart from the question of the amount of taxation, I beg to submit it is highly objectionable and it is on that principle that I object to it.

The Hon'ble Sir SURENDRA NATH BANERJEA: I have heard the question of principle raised, but it does not strike me that any question of principle is at all involved. It is a tax which is levied on a profession; here is a gentleman who is the proprietor of a newspaper, that is his profession, he makes money out of it, so there is no reason why the Corporation should not levy this tax on him. If there is any hardship in any case he can obtain relief by an appeal. My sympathies—I had been for long the proprietor of a newspaper—naturally would be on the side of the amendment, but at the same time I am here to uphold the balance

evenly and do justice to all parties. To take away a right of this kind from the Corporation which it wants for its own purpose, would be detrimental to its interests, and would be inequitable on the part of Government. I oppose the amendment especially on the ground that no hardship whatever will be caused; if there is any hardship in any case, the individual has to make an application to the Corporation and the matter will be considered. I hope in these circumstances the mover will not press his amendment.

The motion that in Schedule V, rule 1, item 10 be omitted was then put and lost.

The motion that in Schedule V, rule 1, item 26 be omitted was not put as it was covered by the previous decision of the Council.

The following amendments standing in the name of Babu Amulya Dhone Addy were, by leave of the Council, withdrawn:—

"That in Schedule V, rule 1, item 22, column 2, lines 1 and 2, the words 'houses, landed property' be omitted."

"That in Schedule V, rule 1, item 24, column 2, line 1, the word 'market' be omitted."

"That in Schedule V, rule 1, item 56 be omitted."

"That in Schedule V, rule 1, item 63, column 3, be omitted, and after item 82, in clause VIII the following item be inserted, namely:—

'82A. Fortune-teller... ... ... Four rupees.'"

The following amendment standing in the name of Rai Mahendra Chandra Mitra Bahadur was, in the absence of the member, deemed to be withdrawn:—

"If either motions Nos. 710, 711 or 715, 716 be carried, that in Schedule V, rule 1, the items be renumbered consecutively."

Babu AMULYA DHONE ADDY: I move that in Schedule V, rule 13 (*a*), lines 1 and 2, the words "the Executive Officer or Deputy Executive Officer and" be omitted.

Mr. S. W. GOODE: To save time may I state, Sir, that Government will be prepared to accept this.

The motion was put and agreed to.

The following amendment standing in the name of Babu Jatindra Nath Basu was, in the absence of the member, deemed to be withdrawn:—

"That in Schedule V, rule 13(*a*), line 2, the words 'or a Deputy Executive Officer' be omitted."

SCHEDULE VII.

Babu AMULYA DHONE ADDY: I move that in Schedule VII, item No. 6 be omitted.

This is a consequential amendment. We have already accepted the principle.

Mr. S. W. GOODE: We accept it.

The motion was put and agreed to.

Babu AMULYA DHONE ADDY: I move that in Schedule VII, item No. 11 be omitted.

Under this item a license fee of Rs. 2 is to be imposed every half-year. I admit that it is a small amount, but I object to it on principle as it would be a tax on labour, and I want to show my sympathy for poor labourers.

Babu SURENDRA NATH MALLIK: I oppose this amendment. If there is to be no tax on the landlords and no tax on the labourers, then who is going to be taxed? My friend's argument is bordering on the ridiculous.

Mr. S. W. GOODE: Sir, I would be prepared to accept the amendment, but with a slight modfication, that is, we will omit "palanquins" but would retain "rickshaws."

Babu AMULYA DHONE ADDY: I accept the modification.

The motion was then put in the following modified form and agreed to:—

"That in Schedule VII, item No. 11, the words 'or palanquin' be omitted."

The following amendment standing in the name of Mr. Abdur Rahim was, in the absence of the member, deemed to be withdrawn:—

"That in Schedule VII, for the fees opposite to the items 1, 2, 3 and 4, the figures '60,' '48,' '36,' and '36' be substituted."

SCHEDULE VIII.

The following amendment standing in the name of Babu Amulya Dhone Addy was, by leave of the Council, withdrawn:—

"That in Schedule VIII, part II, the entry relating to 'for every cow or buffalo kept by a milk-seller 0-12-0' be omitted."

Babu AMULYA DHONE ADDY: On behalf of Shah Syed Emdadul Haq, I move that in Schedule VIII, part II, against entry "for every cow or buffalo kept by milk-seller for '12 annas' '8 annas' be substituted."

This motion is simply meant for reducing the price of milk in Calcutta.

(Laughter.)

Mr. S. W. COODE: We are unable to accept the amendment.

Babu AMULYA DHONE ADDY: Then I would ask leave to withdraw it.

The motion was then, by leave of the Council, withdrawn.

The following amendment standing in the name of Babu Amulya Dhone Addy was, by leave of the Council, withdrawn.

"That in Schedule VIII, Part II, the last entry (relating to the removal of offensive matter, etc. from a market) be omitted."

Babu AMULYA DHONE ADDY: On behalf of Shah Syed Emdadul Haq, I move that in Schedule VIII, Part II, against the last entry, for the word and figure "Rupees 30," the word and figure "Rupees 15," be substituted.

It would appear that, under this Schedule, Rs. 30 is going to be charged for half-year for the supply of conservancy carts, for the removal of rubbish and other waste material. What I beg to suggest is that it should be reduced to Rs. 15, as, under the existing Act, there is no such tax. Of course in the case of markets in which animals are sold, there is a tax in accordance with the number of animals kept therein, but in the case of markets in which animals are not kept, there is no scavenging tax. The owners of markets have to pay both the owner's and occupier's shares of municipal rates and also license-fees; and therefore it would be a great hardship on them to be called upon to pay for the removal of refuse from the market. Sir, is it not a fact that the Corporation is bound to remove them when they realize the consolidated rates? If such a tax is imposed, the result will be that prices of vegetables and other necessaries of life would be increased.

Babu SURENDRA NATH MALLIK: I do not know whether Government would accept the amendment or oppose it. All the same I must oppose the amendment on behalf of the Corporation. Sir, for the removal of rubbish from the market, we will have to send special carts and the charge is Rs. 30 for daily service. And may I ask my hon'ble friend whether the charge made in the schedule is less than the actual charge we have to incur? The present charge is Rs. 45 to Rs. 50 for each cart, if not more, excluding the wear and tear and repairs which, taken together, come to about Rs. 60. It is therefore not an unreasonable charge that we are making in the Schedule.

The Hon'ble Sir SURENDRA NATH BANERJEA: I oppose the amendment on behalf of Government and I may tell my hon'ble friend the acting Chairman that I have no lurking feeling of sympathy for Mr. Addy in his amendment. I oppose it for the reasons stated by the acting Chairman. This is a matter in which Government will be ordinarily guided by the views of the Corporation.

The motion was put and lost.

SCHEDULE XIV.

Babu JATINDRA NATH BASU: With your permission I will move amendments Nos. 744 and 745 together. I move that—

"In Schedule XIV, rule 1(2), for the word 'triplicate' the word 'duplicate' be substituted."

"In Schedule XIV, rule 19(2)(a), line 1, for the word 'triplicate' the word 'duplicate' be substituted."

The practice now is that plans for intended buildings are submitted in triplicate. The submission of plans in triplicate was rendered necessary by the fact that copies had to be kept in the Building Department at the Head Office of the Corporation as well as in the various district offices. That system has now been done away with and the Building Department is now located in the Central Office. I think the object of the Act should be to reduce the number of official records rather than to increase them.

Mr. S. W. COODE: Ordinarily in the circumstances stated by Mr. Basu we would have been prepared to accept his amendment, but it has just been pointed out to me that it is quite possible that the Corporation may have to check this process of centralization in view of the new areas which they have taken within their fold. I would suggest that the insertion of the following words in sub-clause (2) would meet Mr. Basu's intention:—"unless the Corporation otherwise direct."

Babu JATINDRA NATH BASU: I accept the modification.

Mr. S. W. COODE: With your permission I would move that in Schedule XIV rule 1(2), line 2, after the word "triplicate" the words "unless the Corporation otherwise direct" be inserted, and that in the same Schedule, rule 19(2)(a), line 1, after the word "triplicate" the word "unless the Corporation otherwise direct" be inserted.

The motion was put and agreed to.

Babu AMULYA DHONE ADDY: I move that in Schedule XIV, rule 20 be omitted.

(The hon'ble member then began reading apparently from his printed minute of dissent in regard to this rule.)

Mr. PRESIDENT: Mr. Addy, what are you reading from? Is it from a printed paper which has already been circulated to the Council?

Babu AMULYA DHONE ADDY: Yes, Sir.

Mr. PRESIDENT: You must not do it. The Council must be presumed to be aware of its contents.

Babu AMULYA DHONE ADDY: It appears that under specific rules a service-privy cannot be erected within 6 feet of a dwelling house, kitchen or a public building. Then what is the necessity for this rule? It may be said that it is the Corporation which will enforce this rule but, Sir, I think the Corporation will delegate its powers to the sanitary officers and it would be a dangerous weapon in the hands of the subordinate officers of the Corporation. There is no such provision in the Bombay Act or in the existing Act.

Mr. S. W. COODE: Rule 20 states the powers of the Corporation generally, while rules 21 and 22 give them guidance as regards the use of those powers. Mr. Addy asks that the Corporation should not be given power to refuse the construction of a service-privy which they consider likely to create nuisance. Sir, we all know that Mr. Addy is a strong individualist but I think he will agree that it is not an unreasonable power which we propose to give to the Corporation.

The motion was put and lost.

Babu AMULYA DHONE ADDY: With your permission I move that—

"In Schedule XIV, rule 31, line 3, for the words 'Health Officer' the words 'Executive Officer' be substituted."

"In Schedule XIV, rule 32 (3), line 3, for the words 'Chief Engineer' the words 'Executive Officer' be substituted."

"In Schedule XIV, rule 33, line 3, for the words 'Chief Engineer' the words 'Executive Officer' be substituted."

It will appear that these powers are going to be entrusted to the Health Officer and the Chief Engineer, but under the existing Act, these powers are entrusted to the Chairman alone; and therefore I think that these powers should be kept in the hands of the Executive Officer.

Mr. S. W. COODE: May I make a proposal to the hon'ble member? We would be prepared to accept his motion No. 748 if he would withdraw his motions Nos. 749 and 750 which relate to very technical matters which only the Chief Engineer is competent to advise upon.

Babu AMULYA DHONE ADDY: I agree to it.

Rai Dr. HARIDHAN DUTT Bahadur: I think Government will not be wise to accept Mr. Addy's suggestion. On behalf of the Health

Officer who belongs to my profession I object to this. It is a technical matter and it can only be decided by a man with technical knowledge. Mr. Goode, or for the matter of that any Executive Officer or Chairman, cannot be considered to be an expert on health questions and the Health Officer is the only person who can be trusted to do it. I, for myself, would depend more upon the Health Officer in a case like this than upon the Executive Officer, however wise and experienced he may be.

Babu AMULYA DHONE ADDY: May I speak on this, Sir?

Mr. PRESIDENT: No. You cannot do so unless it is a point of personal explanation.

The following motion was then put and agreed to:—

"That in Schedule XIV, rule 31, line 3, for the words 'Health Officer' the words 'Executive Officer' be substituted."

The other two motions standing in the name of Babu Amulya Dhone Addy were then, by leave of the Council, withdrawn.

The following amendment standing in the name of Babu Amulya Dhone Addy was, by leave of the Council, withdrawn.

"That in Schedule XIV, after rule 38, the following new rule be added, namely:—

Executive Officer to be under control of the Corporation.

'38A. The Executive Officer shall, in the exercise of his powers under this Schedule, be subject to the control of the Corporation.'"

SCHEDULE XV.

Mr. D. J. COHEN: I move that in Schedule XV, the following be added at the end of rule 2, namely:—

"Provided that no fee shall be charged for any verandah, balcony, weather-frame or the like as aforesaid when the same is situated in or over any street not vested in the Corporation."

Mr. S. W. GOODE: We are prepared to accept this with a slight modification, that is, with the deletion of the words "as aforesaid" from the proposed proviso.

Mr. D. J. COHEN: I accept the modification.

The motion was then put in the following modified form and agreed to:—

"That in Schedule XV, the following be added at the end of rule 2, namely:—

'Provided that no fee shall be charged for any verandah, balcony, weather-frame or the like when the same is situated in or over any street not vested in the Corporation.'"

The following amendment, standing in the name of Babu Jatindra Nath Basu was, by leave of the Council, withdrawn:—

"That in Schedule XV, at the end of rule 5, the following proviso be added namely:—

'Provided that such prohibition of traffic shall be withdrawn as soon as is convenient.'"

Babu AMULYA DHONE ADDY: I move that to Schedule XV, after rule 8, the following new rule be added, namely:—

Corporation to keep a register of premises.

"9. The Corporation shall keep a register of all alterations made by them in the names of streets and in the numbers of houses therein, and such register shall be kept in such a form as to show the date of every such alteration and the name of the street and the number of the premises previous to such alteration, as well as the new name of the street and the new number of the premises. It shall be lawful for any person to inspect such register and to take a copy of any portion thereof upon payment of such reasonable fee as the Corporation may from time to time determine."

In this connection I would draw the attention of the Council to the note of Babu Bepin Chandra Mallik which he submitted to the Corporation and which will be found in the Corporation minutes. The numbers of premises are generally changed by the Corporation and I have seen serious complaints from many gentlemen about these not being kept in a proper form in the Corporation offices. Therefore I move this amendment.

Mr. S. W. GOODE: I am afraid this proposal would entail a great deal of labour on the Corporation and the hon'ble member should remember that already in the Corporation Proceedings we have got a record of the changes in the names of streets. If the Corporation has to record all these details of the changes in numbers which may be consequential upon the changes in the names of streets, it would, as I have already said, entail a great deal of labour on the Corporation. It seems to me that it would be a very simple matter for the owner of the property to keep a history of the premises himself. Why should he depend on the Corporation for this?

Rai Dr. HARIDHAN DUTT Bahadur: Sir, my hon'ble friend's observations deserve consideration and sympathy at least in this case. I have also known of instances in which great difficulty was felt in finding out how a certain change has been brought about. Mr. Goode says that this must be done by the owners. I do not understand that. The history kept by the owners may not be so authoritative as the information obtained from the Corporation office. If the Corporation does no

do it I do not know of any other authority which can do it. As we feel the necessity it would be only reasonable to ask the Corporation to undertake this work. I therefore support the amendment.

The motion was then put and a division taken with the following result:—

AYES.

Addy, Babu Amulya Dhone.
Afzal, Nawabzada K. M., Khan Bahadur.
Ahmed, Khan Bahadur Maulvi Wasimuddin.
Ahmed, Maulvi Azaharuddin.
Ahmed, Maulvi Rafi Uddin.
Ahmed, Maulvi Yakuinuddin.
Aley, Mr. S. Mahboob.
Ali, Munshi Amir.
Ali, Munshi Ayub.
Azam, Khan Bahadur Khwaja Mohamed.
Banerjea, Dr. Pramathanath.
Barma, Rai Sahib Panchanan.
Basu, Babu Jatindra Nath.
Bhattacharji, Babu Hem Chandra.
Bose, Mr. S. M.
Chaudhuri, Babu Kisheri Mohan.
Chaudhuri, Rai Harendranath.
Chaudhuri, Sir Asutosh.
Cohen, Mr. D. J.
Das Gupta, Rai Bahadur Nibaran Chandra.
De, Rai Bahadur Panindralal.
Dess, Rai Bahadur Pyari Lal.
Dutt, Rai Bahadur Dr. Haridhan.
Forrester, Mr. J. Campbell.
Karim, Maulvi Fazlal.
Law, Raja Reshee Case.
Mallik, Babu Surendra Nath.
Maitra, Dr. Jatindra Nath
Mukhopadhaya, Babu Sarat Chandra.
Nasker, Babu Hem Chandra.
Rauf, Maulvi Shah Abdur.
Ray, Kumar Shib Shekhareswar.
Ray Chaudhury, Raja Manmatha Nath.
Ray, Babu Jogendra Krishna.
Ray, Maharaja Bahadur Kshaunish Chandra
Ray, Mr. Bijoyprasad Singh.
Ray, Rai Bahadur Lalit Mohan Singh.
Sarkar, Babu Jogesh Chandra.
Sinha, Babu Surendra Narayan.

NOES.

Ahmed, Mr. M.
Banerjea, the Hon'ble Sir Surendra Nath.
Bentley, Dr. C. A.
Birley, Mr. L.
Chaudhuri, the Hon'ble the Nawab Saiyid Nawab Ali, Khan Bahadur.
De, Mr. K. C.
Deare, Major-General B. H.
DeLisle, Mr. J. A.
Donald, the Hon'ble Mr. J.
Donovan, Mr. J. T.
Goede, Mr. S. W.
Hornell, Mr. W. W.
Huntingford, Mr. G. T.
Khan, Maulvi Md. Rafique Uddin.
Maharajadhiraja Bahadur of Burdwan, the Hon'ble the.
Marr, Mr. A.
McAlpin, Mr. M. C.
Mitter, the Hon'ble Mr. P. C.
Mukerjee, Mr. S. C.
Rahim, the Hon'ble Sir Abd-ur-.
Robertson, Mr. F. W.
Ray, Mr. C. N.
Roy, Mr. J. N.
Sen, Babu Mani Lal.
Stephenson, the Hon'ble Mr. H. L.

The Ayes being 39 and the Noes 23, the motion was carried.

The following amendment, standing in the name of Babu Jatindra Nath Basu was, by leave of the Council, withdrawn:—

"That in Schedule XVI, rule 3(*1*), proviso (*i*)—

(*a*) in line 13, the word 'half' be omitted;

(*b*) in lines 18 and 19, for the words 'one and a half times' the word 'twice' be substituted."

Babu JATINDRA NATH BASU: I move that in Schedule XVI, rule 3(*2*), proviso (*i*), line 3, for the word "thirty" the word "twenty" be substituted.

This relates to the sanction of a building on a site upon which at the commencement of this Act there will be an existing building. The

Corporation under the existing law makes a concession to the owner on the ground that he should have the same accommodation he was in the enjoyment of when the previous buildings existed. Under the law now in force bustee roads and other roads could be of a width of 20 feet and a great many roads are of that width. A great many houses have been erected on these roads. Therefore, if you insist on a 30 feet road very few persons will be able to take advantage of the provision, and they will find it very hard to comply with it. I therefore propose to prevent any hardship, specially to small holders, that the width should be 20 feet instead of 30 feet.

Mr. S. W. GOODE: The present rule in the existing Schedule XVII is that the height allowed under this rule shall in no case exceed 36 feet and in this Bill, as originally drafted, we had a similar provision. The Select Committee has deleted this limitation of 36 feet, but it has put in another restriction which I hold is less rigid than what we had before. I would be quite prepared to reinsert the old provision limiting the height to 36 feet, but I do not think that it would be wise to accept the suggestion of the Select Committee as well as to delete the restriction which confines the concession to the buildings in streets not less than 30 feet in width. I do not know whether Mr. Basu would be prepared to have the old provision re-inserted, if his amendment is accepted. We should have no objection to this being done.

Babu JATINDRA NATH BASU: I would prefer the procedure in the existing Act, and if Mr. Goode move his amendment I would withdraw this amendment in favour of his.

Mr. S. W. GOODE: I move that in Schedule XVI for proviso (*i*) to Rule 3(2), the following be substituted, namely:—

"the height allowed under this sub-rule shall in no case exceed thirty-six feet and"

The motion was put and agreed to.

Babu Jatindra Nath Basu's motion was then, by leave of the Council, withdrawn.

The following motion standing in the name of Babu Rishindra Nath Sarkar was, in the absence of the member, deemed to be withdrawn:—

"That in Schedule XVI, rule 3(2), proviso (*ii*), last line, the words 'portion of the' be omitted."

Raja RESHEE CASE LAW: I beg to move that—

"In Schedule XVI, rule 3(3), line 4, for the word 'sixteen' the word 'twelve' be substituted.

"In Schedule XVI, rule 3(5)(*b*), line 1, for the word 'sixteen' the word 'twelve' and in line 5 for the word 'eight' the word 'six' be substituted.

If the above motion be carried, that " i nSchedule XVI, rule 3(6)(a), line 2, for the word 'sixteen' the word 'twelve' and in rule 3(6)(b), line 4, for the word 'eight' the word 'six' be substituted."

My reason for this amendment is that having regard to the width of very many streets in Calcutta now existing, it would be somewhat unfair to limit the minimum width for a street to 16 feet on which two-storeyed buildings would be allowed. Under the old Act the minimum was 12 during the last decade innumerable houses have been built on a 12 feet road. As this rule will apply also in respect of old and existing streets, I think there is no reason why we should make a departure from our old minimum. All the amendments proposed are in reference to a a 12 feet minimum. What would be the position of an owner if he has to re-erect a building?

Dr. PRAMATHANATH BANERJEA: I support this amendment. Every resident of Calcutta—I mean Indian Calcutta—knows that the ground floor of a house is always damp and uninhabitable. In the existing Act there is a rule that bulidings should be allowed to be erected to a height of 28 feet in lanes which are not 12 feet wide. Now the width of such a street is proposed to be raised to 16 feet. This will prove a great hardship to small owners of houses. This is not a landlord question, and I, therefore, hope the support of the European non-officials will be given to this amendment. It should also be noted that in Northern Calcutta most of the streets are narrow and many of the streets are less than 16 feet wide. I think the existing rule should be retained, and no change made in this respect.

Mr. S. W. GOODE: The object of these rules is to ensure that you will get a better Calcutta in the future than we have at present. I am sure the members of this House will realise their responsibility in making any substantive changes in these most important rules. But I think there is a great deal of force in what Raja Reshee Case Law urges, and it has also to be remembered that in the new areas which have been added to Calcutta there are many narrow gullies in which the owners might, as Dr. Banerjea has said, desire the privilege of a two-storied house. On the whole, although we are somewhat reluctant to change this schedule, we would accept these amendments.

The motions were then put and agreed to.

Babu JATINDRA NATH BASU: In the absence of Mr. D. J. Cohen and Babu Rishindra Nath Sarkar, I beg to move the following amendment standing in their names:—

" That in Schedule XVI, rule 3(A), line 5, for the word 'forty' the word 'fifty-five' be substituted."

Mr. S. W. GOODE: We would accept it.

The motion was then put and agreed to.

The following amendment standing in the name of Babu Rishindra Nath Sarkar was, in the absence of the member, deemed to be withdrawn:—

"That in Schedule XVI, rule 3(4), the following proviso be added, namely:—

"Provided however that notwithstanding anything herein contained, a two-storeyed building not exceeding twenty-eight feet in height, excluding two feet for the plinth and excluding parapets not more than four feet high, shall be permitted beyond the said fifty-five feet, without reference to the street at the side, if the same do not contravene the road-angle at the front."

Babu JATINDRA NATH BASU: I beg to move that in Schedule XVI, rule 5(2), line 3, after the word "storeys" the words "or more than 60 feet in height" be inserted.

Rule 5(2) of the Schedule provides that in the case of a building of five or more storeys, the Corporation may require the owner to provide a lift or some other mechanical contrivance. It is not the number of storeys, but it is the height that renders lifts necessary. For instance, if you have a building of two storeys like the High Court, which is very high, it may require a lift. What I suggest is that after the word "storeys" the words "or more than 60 feet in height" be inserted. Sixty feet is high enough to take the breath out of a man, and I suggest that if a house is more than 60 feet high, the Corporation should have power to require the owner to provide a lift.

Mr. S. W. GOODE: We have no objection to this amendment. We would accept it in a slightly different from. I would omit the words "of five or more storeys" after the word "building" and substitute the following:—"more than 60 feet in height or comprising four or more storeys."

The amended motion was then put and agreed to.

Babu JATINDRA NATH BASU: I move that in Schedule XVI, rule 9, line 2, for the words 'motor garages and coach houses' the words 'motor garages, coach houses, stables, cow sheds and godowns' be substituted. I also beg to move that in Schedule XVI, rule 9, the proviso be omitted.

Rule 9 of Schedule XVI requires that the plinth of a house shall be 2 feet above the level of the centre of the nearest street, except in cases of motor garages and coach houses. I desire to add to them, stables, cow-sheds and godowns, because there does not appear to be any necessity of the plinth of these structures being made 2 feet high, inasmuch

as they are used for the purpose of stalling horses and cows and for storing things. If my first amendment is accepted then there is no necessity for the proviso to the clause which excludes stables and cow-sheds only, as I have added godowns also.

Mr. S. W. GOODE: I am afraid we cannot accept this amendment. The Bill as it stands makes the law somewhat more liberal than the original Bill did, and I am sure Mr. Basu will recognize that it is most essential that in the case of cow-sheds, stables, and godowns, to ensure proper drainage arrangements, a sufficient plinth should be provided. Moreover, a godown is not merely a building in which goods are stored, but ordinarily it is a place in which servants live, and it is very essential that they should have a plinth high enough to ensure dryness. On the whole, I think the proposal will be harmful and cannot be accepted.

The motions were then, by leave of the Council withdrawn.

The following amendment standing in the name of Shah Syed Emdadul Haq was, in the absence of the member, deemed to be withdrawn:—

"That in the Schedule XVI, rule 18 be omitted."

The following amendment was, by leave of the Council, withdrawn:—

Raja RESHEE CASE LAW: "That in Schedule XVI, rule 18, lines 3, 4 and 5, the words 'which the Corporation may think fit and proper in the special circumstances of the case' be omitted."

The following amendments were, in the absence of the members, deemed to be withdrawn:—

Mr. D. J. COHEN and Babu AMULYA DHONE ADDY: "That in Schedule XVI, rule 20(*b*) omitted."

SHAH SYED EMDADUL HAQ: "That in Schedule XVI, rule 21 (*a*), line 2, for the words 'other than a hut' the words 'including a hut' be substituted."

Th following amendment was, by leave of the Council, withdrawn:—

Babu JATINDRA NATH BASU: "That in Schedule XVI, rule 22 (*l*), in line 3, after the word 'has' the words 'after the commencement of this Act' be inserted."

The following amendments were, in the absence of the members, deemed to be withdrawn:—

Babu AMULYA DHONE ADDY and Mr. S. M. BOSE: "That in Schedule XVI, rule 23, line 4, for the word 'one-third' the word 'one-half' be substituted."

SHAH SYED EMDADUL HAQ: "That in Schedule XVI, rule 23, line 4, for the word 'one-third' the words 'at least one-half' be substituted."

Mr. S. W. GOODE: I am pledged to Mr. Cohen to accept this amendment. I think it is a reasonable one, but the form is not quite right. I would move that a similar proviso as is attached to rule 23 be inserted after rule 24(2).

The motion was then put and agreed to.

The following motion was then withdrawn :-

"That in Schedule XVI, rule 24(1)(a), line 1, the following be added before the words 'the dwelling house,' namely :—'subject to the proviso contained in rule 23.'"

The following amendment standing in the name Mr. S. M. Bose was, in the absence of the member, deemed to be withdrawn :—

"That in Schedule XVI, rule 24 -

(1) in sub-rule (1), line 1, for the word 'two-thirds' the word 'one-half'; and

(2) in sub-rule (2), line 1, for the word 'two-thirds' the word 'one-half' be substituted."

The following amendment was, by leave of the Council, withdrawn :—

Raja RESHEE CASE LAW: "That in Schedule XVI, rule 24(1)(a), lines 2 to 6, for the words 'but not' to the words 'or section 309' the word 'subject to other provisions of this Act' be substituted."

Babu JATINDRA NATH BASU: I beg to move that in Schedule XVI, rule 24(1)(b), lines 3 and 4, for the words "two storeys or exceed twenty-four feet in height" the words "three storeys or exceed thirty-six feet in height" be substituted.

It relates to the erection of outhouses. In Calcutta we are now going to have high buildings and if the servants' quarters are restricted to two storeys or only 24 feet in height, considerable inconvenience will be caused. What I propose is that the height of these outhouses may be three storeys or 36 feet in height. For big mansions of six storeys which have connecting bridges, it would be very inconvenient to have only two storeyed outhouses. If the height be restricted to two storeys or 24 feet, it will be a source of great inconvenience to the residents of such mansions, who will be prevented from having prompt access to their kitchens and servants' quarters.

Mr. S. W. GOODE: I think it would be rather dangerous to permit the construction of three-storeyed buildings for servants' quarters in the detached building areas. They will interfere, I am afraid, very considerably with the ventilation and light of the main premises to which they will be adjacent. One knows that already the servants' quarters tend to block the light and air of the main house, and it would be a retrograde step if we allowed these servants' quarters to be built

to a greater height. I recognise with Mr. Basu that it is very important that facilities for the accommodation of servants should be given, but I am afraid it would be unwise to do it in this manner. The present law provides that these quarters shall not exceed 15 feet in height, but the Select-Committte has liberalized the present law. I trust, therefore, that Mr. Basu will not press his amendment.

The motion was then put and lost.

Mr. S. W. GOODE: We would accept the next amendment standing in Mr. Cohen's name.

The following motion was then put and agreed to:—

"That in Schedule XVI, rule 29(5) the following be added at the end, namely:—

'excluding any cornice or moulding not exceeding 18 inches'."

The following amendments standing in the name of Babu Jatindra Nath Basu were, by leave of the Council, withdrawn:—

"That in Schedule XVI, rule 30(4) proviso, line 1, for the words 'cases (a) and (b)' the words 'case (a)' be substituted."

"That in Schedule XVI, rule 30(4)(a), line 4, for the word 'sixteen' the word 'ten' be substituted."

"That in Schedule XVI, rule 30(4) (b) be omitted."

Babu JATINDRA NATH BASU: I beg to move that in Schedule XVI, rule 33(2), at the end of proviso (b), the following be inserted:—

"(c) a one-storeyed kitchen having a floor area of not more than 120 square feet exclusive of walls may be erected in the open space left under rule 30; sub-rule (2)."

This relates to the space at the back of houses. What I suggest is that the owner should have the right to erect a kitchen in the back space. Ordinarily in Indian houses the kitchen is in the interior of the house or in the court-yard. This causes great inconvenience not only to the inmates of the house but to the neighbours also, by reason of the smoke. If the kitchen is shifted outside to the back yard, then it would be of great convenience to all concerned. I find that there is an omission in my amendment as printed. After the words "floor area" the words "of not more than 120 square feet' should be inserted.

Rai Dr. HARIDHAN DUTT Bahadur: I want to point out that in some cases this would not be possible. In an area of, say, 2 cottahs of land, only about 150 square feet may be left at the back, and if the whole or major part of that back space is occupied by the kitchen, there would be hardly sufficient space for privies and ventilation purposes. I do not think my friend's proposal is feasible.

Mr. S. W. COODE: Government would agree with Dr. Dutt in this matter. I oppose the motion.

The motion was then put and lost.

Babu JATINDRA NATH BASU: I beg to move that in Schedule XVI, rule 35 be omitted.

Rule 35 of Schedule XVI provides that where a road alignment has been laid down for a street, the portion within the alignment lines will not be taken into account in calculating the space that has to be left open under the building rules. The hardship that will be caused if this rule is given effect to is this. Suppose an alignment is laid down in 1923 and the road is not actually set back to the alignment lines till 1943. During the 20 years you cannot avail of the benefit of the land that you have, but must proceed on the basis as if the land included within the alignment lines does not belong to you. If the Corporation had provided that on the alignment being laid down, the land within the alignment will be acquired within a reasonable and definite time, the hardship would not be there. But no limit of time is laid down. That is why it will be a very great interference with private rights without any corresponding benefit to the public.

Rai Dr. HARIDHAN DUTT Bahadur: I would like to point out to my friend that he is not absolutely correct in his statement. There may be an alignment in respect of a land, and when one wants to build upon that land he has to set back, but immediately he does so, the Corporation is bound to compensate him for the land he gives up. Therefore he is not entitled to have the benefit of that land when the required one-third open space is calculated. My friend forgets that as soon as a building is completed, the Corporation compensates for the land given up within the alignment, and so there is no hardship.

Mr. S. W. COODE: I think Mr. Basu will agree that it would be obviously unfair to the Corporation that the house-owner should be able to claim a double advantage. On the one hand, it is suggested that he should be paid for the land which falls within the road alignment, and secondly that he should be allowed to use that land so to speak a second time in calculating the open space which he, in common with other people ought to leave under the provisions of this Schedule. I think that is not reasonable. I admit, as Mr. Basu has pointed out, that a case might occur where the road alignment does not immediatly mature, and the person wishes to build on his land. If the Corporation be not immediately called upon to acquire the land which is within the alignment, in such cases there might be hardship. On the other hand I would draw Mr. Basu's attention to the fact that the rule may be relaxed with the permission of the Corporation. Now I put it to him that in the circumstances I have suggested, the Corporation will never think of refusing both

to acquire the land and to give sanction. They would either decide to abandon their alignment, in which case the owner would include the open space in his land, or they would acquire the land, in which case the party will have no moral right to have it included within his site for the purposes of the building rules. On this ground I suggest that the amendment is not really necessary.

The motion was then, by leave of the Council, withdrawn.

[At this stage the Hon'ble the President left the Council Chamber and Kumar Shib Shekhareswar Ray took the chair.]

Babu JATINDRA NATH BASU: I beg to move that in Schedule XVI rule 36 be omitted.

It provides that the open space provided for building one site cannot be taken advantage of in respect of any other building. It sometimes happens in Calcutta that there is a common passage or a common court-yard. In these cases the open space shown on the plan belongs not to one particular building, but to two or three buildings, and the party who desires to erect structures in connection with his own building is perfectly entitled to show that the common court-yard or the common passage over which he has full rights is open space in connection with his building. If one owner shows that in his plan when obtaining sanction, why should not the other owner who has also a similar common right over the open space or court-yard be entitled to show the same land as open space in connection with his building. In partitioning properties in Calcutta, it sometimes does happen that common court-yards and common passages are left for the use of parties to whom separate plots are allotted I therefore, propose that clause 36 should be deleted as it may cause unnecessary hardship.

Mr. S. W. COODE: I do not quite follow Mr. Basu's point. I think that it should be obvious that the open space which a person is required to leave under this rule should not be appropriated to serve as open space for other buildings. It should remain a part of the site in regard to which it has already been taken into account by the Corporation. I think that the case which Mr. Basu has instanced in connection with common passages is really relevant. We have substantive sections providing that sufficient passages should be provided to give access to all sites, and these passages should remain open also. I see nothing therefore to commend this amendment, and Government must oppose it.

The motion was then put and lost.

Babu JATINDRA NATH BASU: I beg to move that in Schedule XVI, rule 42 (*1*), line 5, for the words "an open space" the words "a space" be substituted.

This amendment relates to spaces that are required to be kept open in buildings of the warehouse class. Rule 42 requires that in buildings

of the warehouse class an open space shall be kept for the passage of carts, but it may happen that the passage left for carts to pass may be a covered passage with the upper floors used for other purposes. In fact, there are several buildings in Calcutta of the warehouse class where there is a passage left for carts all round the ground floor, while the upper floors above the passage are used as offices, and the rest of the ground floor for the storage of goods. I do not see any reason why the passage intended for carts should be left open to the sky. A covered passage is quite as useful for the purpose of the passage of carts. I therefore, propose that instead of "an open space" the words "a space" be substituted.

Rai Dr. HARIDHAN DUTT Bahadur: I rise to oppose this amendment. I want to point out to my friend that he has been a little duped by somebody. He has forgotten that a warehouse building has very little space left in it. Only back space and side space are ordinarily required in the case of warehouse buildings. So the only way by which we can ensure the provision of an adequate amount of open space in warehouse buildings is by rule 42, and that is done by insisting upon a cart passage. Unless the cart passage is kept open to the sky, the ventilation of the warehouse buildings will be very much jeopardized. I would ask my friend to go round some of the Banks which are not very from this place. There he will find that all available space has been covered up and the space originally left as carts passage has also been covered up with glass allowing the light to come into the room, and because no Burra Sahib sits there, no notice is taken of the insanitary condition of the building. My friend must sympathize with the fate of the poor clerks who have to spend the best portion of their days, i.e., every day from 10 A.M. to 5 P.M. within the confined rooms of the warehouse buildings like Banks, etc. There is practically no open space left, with the result that the offices are ill-ventilated. So I request my friend to withdraw his amendment.

Mr. S. W. GOODE: I feel some difficulty over this clause and I am very loth to differ from Rai Dr. Haridhan Dutt Bahadur who is a staunch champion of light and air in the Corporation, but at the same time I do feel that there is some force in Mr. Basu's contention. Dr. Dutt has urged that the open space which is required to be provided under this rule for carts is the only open space which will ordinarily be attached to buildings of the warehouse class and, therefore, any proposal to permit this space to be covered up should be strenuously opposed. Well, I agree from the practical point of view there is great force in that argument, but on the other hand it has to be remembered that this space is being provided for the passage and accommodation of carts and not from the point of view of ventilation. From that point of view it has to be remembered that space which is covered might quite suitably serve for the parking or unloading of carts so as to prevent the carts from being left in the streets. So, Mr. Basu is in a strong position in urging that as

this rule is ostensibly to prevent the carts from utilizing the space in the streets, you should not bring in other considerations and use this rule to provide light and air in buildings of the warehouse class. It has to be noted also that in rule 40 it is stated that the provisions of rules 29 to 36 as to domestic buildings shall have effect in the case of buildings of the warehouse class in areas not declared for those buildings. In the area which is not declared, buildings such as offices, for instance, those of Clive Street, may be erected and in that case we shall have rules 29 to 36 to safeguard the interests of light and air, but in the case of buildings of the warehouse class in *declared* areas such as Strand Road, it will be recognized that the buildings are usually vacant and deserted during the night and there is less necessity for the strict observance of provisions for light and air. I would steer a middle course between Dr. Dutt's opposition and Mr. Basu's proposal. I hope that the following suggestion will commend itself to both of them. I would, with your permission move that in sub-section (2) of rule 42 before the word "no" the following words "except with the permission of the Corporation" be inserted. This will give the Corporation discretion in the matter and I am sure that they will exercise it in a reasonable way. I would like to know whether Mr. Basu will accept my amendment.

Babu JATINDRA NATH BASU: I accept the suggestion of Mr. Goode, and withdraw my amendment.

The motion of Babu Jatindra Nath Basu was then, by leave of the Council, withdrawn.

The following motion of Mr. Goode was then put and agreed to:—

"That in rule 42 (2) before the word 'no'" the following words be inserted, namely,—

'except with the permission of the Corporation.'"

Babu JATINDRA NATH BASU: I beg to move that in Schedule XVI, rule 56, lines 3, 4 and 5, for the words "and by the licensed building surveyor who has prepared the same as required by section 324" the words "and by the Surveyor or Architect who prepared the same" be substituted.

It relates to the submission of plans for proposed buildings. Rule 56 of Schedule XVI requires that the plans shall be signed by the owner and by the licensed building surveyor. I have proposed that they shall be signed by the owner and by the Surveyor or Architect who prepared the same. I do not see why a licensed building surveyor and not any other building surveyor should sign the plan.

Mr. S. W. GOODE: May I point out to Mr. Basu that the "Surveyor or Architect who prepared the same" will invariably be a licensed building surveyor, and that he will be competent to carry out the duties proposed under this rule.

Babu JATINDRA NATH BASU: In view of the explanation given by Mr. Goode I beg leave to withdraw my amendment.

The motion was then, by leave of the Council, withdrawn.

The following motion by Mr. D. J. Cohen was not put as it was covered by a previous decision of the Council, *viz.*: "That in Schedule XVI, rule 57 be omitted."

Rai Dr. HARIDHAN DUTT Bahadur: I beg to move that in Schedule XVI, for rule 57 (*1*) the following be substituted:—

"57 (*1*). Every person who intends to erect a new building (other than a hut) shall, if the work is likely, in the opinion of the Corporation, to cost not less than fifty thousand rupees, or such other amount as may, with the sanction of the Local Government, be fixed from time to time by the Corporation, employ a licensed building surveyor, or any other competent person who is approved by the Corporation, to supervise the erection of such building."

I shall at once point out that I am not opposed to the employment of licensed building surveyors for the preparations of plans of buildings proposed to be erected. I have accepted that policy but the Select Committee have extended it a little further and they have suggested that in the erection of any building in Calcutta some competent building surveyor must be employed to supervise the erection of such building. This is an innovation in Calcutta. Up to this date, if anybody wants to build a building, he can employ an engineer or any supervisor he likes, or he need not even employ anybody. He can superintend the construction of his own building or may, if he wishes, take the help of an engineer.

Mr. S. W. GOODE: This is what has been done in this Bill.

Rai Dr. HARIDHAN DUTT Bahadur: I submit that it is not. A man may wish to erect a building and he may submit a plan and from the plan the building may be assessed to cost him a lakh of rupees. But it may so happen that instead of completing the whole building, he may construct only one storey or a portion only. The building may be a large three-storeyed one, but he may be satisfied with comparatively smaller accommodation to begin with. Then after five or six years, he may add a few rooms or a second storey and so on. In the Indian quarter, such a thing is not unknown. Speculators might buy a land and after drawing a plan and getting it approved erect a building costing perhaps lakhs of rupees, but an ordinary resident especially a man of moderate means cannot afford to do so. All that he often does is to buy a land and construct the ground floor and such accommodation in the first floor as is absolutely essential to him. After some years, when he has more money in his hand, he adds another storey and goes on increasing his accommodation gradually. So we should not insist that every building should be assessed at the time when the plans are prepared and that the owner of the

building much entrust the whole work to be supervised by a licensed building surveyor. You have made a limit of Rs. 50,000. If a building costs less than this amount, you do not insist upon a building surveyor coming in. My amendment differs from the original Bill in the word "work." When the cost of the work actully done is less thn Rs. 50,000, I would suggest that he should be exempted.

Mr. D. J. COHEN: I beg to move that—

"In Schedule XVI, rule 57(*1*), for the words 'new building' in line 2 down to the word 'Corporation' in line 6, the following be substituted, namely—

"a structure of steel frame or reinforced concrete."

"In Schedule XVI, rule 57 (*1*), the words 'with the sanction of the local Government' in line 5, be omitted."

"In Schedule XVI, rule 57 (*4*) line 2, after the words 'completion of' the words 'a substantial portion of' be inserted, and in line 4, for the word 'week' the word 'fortnight' be substituted."

My idea is that we ought to limit this practice of compelling an owner to employ licensed building surveyors to particular classes of buildings, viz., structures of steel frame or reinforced concrete. I hold in my hand the opinion of the City Architect as to the number of buildings that collapsed in the whole of Calcutta during the last 12 years. It appears that only five buildings have collapsed during all that period: in one case it was a collapse of front portion of old building during reconstruction in January, 1921; in the second case, collapse during addition of third storey in 1918, due to overloading an old and unsatisfactory walling; in the third case, collapse of verandah in November, 1922, due to the fact that separate cantilevers with 15 feet of wall hold had been used without suitable supports to outside edge; in the fourth case, collapse of verandahs in 1914 owing to bad design; and in the last case, collapse of two storeys during reconstruction without sanction due to bad design. These are the five cases which have occurred during the last 12 years, and according to the City Architect there is possibility of greater danger with point loaded structures than with the conventional type of masonry building. He adds that in the five cases which I have mentioned already three cases of failure are attributable mainly to lack of proper supervision and two cases to bad design. That being so, we ought to confine the operation of this clause to buildings of steel frame or reinforced concrete. In those cases it is absolutely necessary that an expert engineer should supervise the construction, but the same cannot be said in the case of buildings of the conventional type.

Then you have got a limit of a building costing Rs. 50,000. A three-storyed-building on, say, 3 cottas of land, may not cost Rs. 50,000, whereas a two-storeyed building on a large area of land will certainly cost much

more than Rs. 50,000. On the one hand, you allow a three-storeyed building to be constructed without any expert supervision, but in the other case of a two-storeyed building a licensed building surveyor will have to be employed. This being so, I hope that Government will accept my amendment which limits the operation of this clause to certain classes of buildings.

If my first amendment is not accepted, I hope that Government will consent to delete the words "with the sanction of the local Government" in rule 57 (*f*) of Schedule XVI. Surely, in a small matter like this it is not necessary to go up to the local Government to increase the amount as to the cost of houses, in the construction of which licensed building surveyors have to be appointed to supervise.

Mr. S. W. COODE: I think there is very little difference between Dr. Dutt's draft and the draft in the Bill, and I am very doubtful if his draft, as it stands, will achieve the object he desires. But leaving aside the question of drafting I think on the merits of the case it is useless to try and checkmate a person who wishes to evade or dodge this law. If any person who proposes to build a house puts in a plan for a lower storey this year costing considerably less than Rs. 50,000, and year after year goes on adding a second and a third storey, you will not be able to catch him under this section. After all you can dodge many provisions of this law and I think we should leave this out of account.

Mr. Cohen has proposed that we should restrict these provisions to certain cases. Mr. Cohen, I am aware, has a very considerable knowledge of house-building, and I have no doubt that it is possible for him with the aid of a small contractor or mistri to construct a three-storeyed or four-storeyed building costing Rs. 50,000, which will be perfectly secure. There are many people who have not so much knowledge of building construction and it is essential that in the public interest they should be required to employ qualified men to supervise their operations. I, therefore, think that it would be unwise to water down the provisions in the way he suggests. Government, however, would be prepared to accept amendment No. 792 and would leave this matter entirely to the discretion of the Corporation.

Mr. D. J. COHEN: What about my last amendment?

Mr. S. W. COODE: We would have no objection to the word "fortnight" being substituted for a "week," but we do not accept the remaining portion of the amendment which, according to Mr. Cohen's own contention, is unnecessary.

Mr. D. J. COHEN: I beg to withdraw the first part of my last amendment.

The following amendment was, by leave of the Council, withdrawn:—

"That in Schedule XVI, rule 57 (*4*), line 2, after the words 'completion of' the words 'a substantial portion of' be inserted."

The first motion of Mr. D. J. Cohen was then put and lost.

The second motion "that in Schedule XVI, rule 57(*1*) the words 'with the sanction of the Local Government' in line 5, be omitted "was then put and agreed to.

The following motion was put and agreed to:—

"That in Schedule XVI, rule 57(*4*), line 4, for the word 'week' the word 'fortnight' be substituted."

[At this stage the Hon'ble the President returned to the Chair.]

Babu JATINDRA NATH BASU: I beg to move that in Schedule XVI, rule 59 (*1*), lines 5 to 8, the words "or within fifteen days after the Corporation have been satisfied that there are no objections which may lawfully be taken to the grant of permission to execute the work" be omitted.

Rule 59 is meant to protect the public against the dilatoriness of the Corporation. When plans and applications are submitted for the erection of buildings, it sometimes happens that the Corporation sticks to that plan and application for months and months before granting the sanction, with the result that the applicant may not be in a position to commence building operations or may have to leave his structure unfinished during all that time. Very often in the press the opinion has been voiced that the Corporation is ordinarily dilatory in granting sanction for buildings, and there is a considerable volume of feeling in Calcutta to that effect. Rule 59 provides that within 15 days after the receipt of any application the Corporation should either grant the permission or refuse it.

Mr. PRESIDENT: Please move amendment No. 803 also.

Babu JATINDRA NATH BASU: I beg to move that in Schedule XVI, rule 86, lines 5 to 8, the words be omitted namely:—

> "or within fourteen days after the Corporation have been satisfied that there are no objections which may lawfully be taken to the execution of the work."

Rule 59 provides that within 15 days after the receipt of the application, the Corporation should either grant the permission or refuse the permission, but a clause has also been added that the 15 days should not only be from the receipt of the application but also from the time when the Corporation have been satisfied that there are no objections which may be taken. The Corporation may take 30 years to make up their minds as to whether there are objections or not. Is the applicant to wait all that length of time? By introducing the second provision, you are

stultifying the first provision. What is the use of having the first provision if the Corporation can always take shelter for its dilatoriness under the second provision? If the Corporation are not satisfied, they should say straight away within 15 days after the receipt of the application and should not keep the applicant waiting for a long time. So, let the first portion remain and the remainder be left out.

Mr. S. W. GOODE: I am not sure that Mr. Basu realizes what preliminaries there are to go through before a plan can be sanctioned. If you are to say that within 15 days after an application is submitted the Corporation must give an opinion upon it, one of the two things happens, either the Corporation refuses, in which case the person does not get forward, or secondly, the Corporation sanctions the plan. Now, the Corporation cannot sanction a plan unless it is satisfied that it is in accordance with the provisions in this schedule. That entails an inspection of the site by the building surveyor, though an inspection might have already been made by the building inspector, and after that there may be some points on which the orders of the Building Committee are required. Generally speaking, no person in Calcutta submits a plan which is strictly in conformity with the rules. I had to deal with hundreds of plans and I had rarely the privilege of dealing with one which complied in every respect with the building regulations; almost invariably some concession is asked for and the owner therefore has to submit to the delay which his application for a concession must necessarily involve. This involves a reference to the committee and frequently a further inspection is to be made by a sub-committee of commissioners themselves. In these circumstances it would be quite impossible to restrict the Corporation to some definite limit, such as 15 days or one month after the submission of the plan.

Babu SURENDRA NATH MALLIK: I must strongly oppose this on behalf of the Corporation. My friend's idea is that building plans can be sanctioned in a day. How can it be, I do not see. Anybody who has himself taken a plan to the Municipal Office knows that more often than not there are mistakes in the plan and Mr. Goode has said everything that can be said from the point of view of the difficulties in the Municipal Office. Over and above these difficulties arise out of the Improvement Trust. We have got to make cross references to the Improvement Trust. We have got to make cross references to the Improvement Trust to find out whether there is an alignment or project or something of that sort which might stand in the way of our sanctioning the plan. So it is absolutely impossible to sanction a plan within 15 days of its submission. It cannot possibly be granted, though it is very easy to say so. Committees cannot meet every day; the municipal commissioners are busy men; they can meet once a week, not more. There are so many applications and such a lot of business to be done that it is not at all possible to limit the period to 15 days.

Babu JATINDRA NATH BASU: May I make a suggestion to Government that instead of 15 days if we make it six weeks, it will give the Corporation ample time to consult even somebody in England, not to speak of the Improvement Trust here.

Mr. S. W. COODE: That again will lead to the same difficulty. There may be subsequent objections which can only be determined by the building surveyor.

The motions were then put and lost.

Babu JATINDRA NATH BASU: I move that in Schedule XVI, rule 59(3), line 4, for the words "affect the site of a proposed building" the words "render necessary the acquisition of the site of a proposed building or any part thereof" be substituted.

Rule 59(3) of Schedule XVI provides that if it appears to the Corporation that any public improvements might affect the site of a proposed building, they might withhold sanction to building on that plot. What I submit is that if it appears to the Corporation——

Mr. S. W. COODE: I might intervene and say on behalf of Government that we accept this amendment. It seems a very reasonable one.

Babu SURENDRA NATH MALLIK: That is right Make it more stiff.

The motion was put and agreed to.

Babu AMULYA DHONE ADDY: I move that in Schedule XVI, rule 67 be omitted.

This is a new rule which does not exist in the existing Act nor do we find it in the Bombay Municipal Act. Under this rule, if, at any time, after permission to erect a masonry building has been given and the Corporation are satisfied that such permission was granted in consequence of any material misrepresentation or fraudulent statement made in the application, then the Corporation may cancel such permission; not only that, but any work done thereunder shall be deemed to have been done without permission. Now a right once vested should not be divested; otherwise, it will result in serious consequences. Supposing a person gets a plan sanctioned, though under misrepresentation, and erects a three-storeyed building and suppose for argument's sake he sells it off to another person who is quite ignorant of the alleged misrepresentation, and who purchases it honestly and for a valuable consideration, and if after three years the Executive Officer of the Corporation comes to know that this plan was sanctioned under a misrepresentation, then under this rule that plan would be regarded as cancelled, and the Corporation shall have the right to have the building demolished, if it is not in conformity

with the building regulations. Would it not be a source of great hardship? Of course, I am not in favour of encouraging misrepresentation or fraud. If a person gets sanction in collusion with an officer of the Corporation, should not the officer be punished by the Executive Officer? Then, Sir, prevention is better than cure. As soon as a person submits an application for sanction, a local inspection is made by an officer of the Corporation; not only that, but supposing a person gets sanction for the erection of a building, he cannot commence work unless he gives previous notice to the Executive Officer and then the local inspection is made by an officer. Why does not that officer report the matter to the Corporation or to the Executive Officer; not only that, but at the time of the construction an officer of the Corporation may inspect the work. If no objection is raised at that time, why should the owner of the building suffer? Then, under the Bill the building surveyors who will be appointed will inspect the building during construction and submit a certificate to the effect that the building regulations have not been contravened. If the Executive Officer does not care to make an inspection before he gets the certificate or even on receipt of the certificate, then it is his fault and I do not understand why an honest person should be punished for the fault of an officer of the Corporation. Why should a person be punished for having purchased the property for valuable consideration without any knowledge whatever of the alleged misrepresentation or fraud? I beg to submit that if this provision be not omitted, the rule will be a dangerous weapon in the hands of the subordinate officials of the Corporation. This is the opinion which has been submitted by the British Indian Association and the Marwari Association. They are very keen about it and are of opinion that this power which is going to be vested in the Executive Officer of the Corporation is likely to be abused.

Babu SURENDRA NATH MALLIK: I can very well understand my friend's anxiety in this matter. He says that the British Indian Association and the Marwari Association are both opposed to the fraudulent practices being exposed. I can very well understand also that in matters of building sanction it is very likely that they would object to this and there is no question about that. But what do we want to do here? We want to put a stop to all fraudulent practices and that sanction obtained by fraud should not be allowed to stand; that is the whole thing. Is there any member of this Council who differs from the proposition that when sanction has been obtained by misrepresentation or fraud and when it is found out that the sanction should not be allowed to stand? That is the position which this Council has accepted on the question of assessments when the assessments had been made at a very low rate through misrepresentation or fraud, and the Executive Officer has been given authority to reopen the whole question. That principle has already been accepted by this Council and I may pass over it.

Now comes my learned friend's argument and he began it by quoting scripture and text. He has said that a right once vested cannot be divested. I am really surprised to hear that argument. Suppose I steal a gold watch and put it on for three days and after that time there should be a right vested in me and is that right not to be divested of me?

Babu AMULYA DHONE ADDY: This is not a vested right.

Babu SURENDRA NATH MALLIK: I beg to be excused. You obtain sanction on fraud or misrepresentation; is that right vested? Why does he talk of things which he does not understand. (Hear, hear!) I think we must all try our best to put a stop to these things at once and there should be no sympathy for them. These things demoralize even the officials of the Corporation—I mean the subordinate officials—and the officials must know that if they do this it is no good granting sanction after receiving some gratification, because there will be a superior officer who will have the power of setting aside the sanction, and the man also who gives the bribe will do so with every possibility of the sanction being cancelled. That is the reason why I must oppose this amendment.

The motion was then put and lost.

Babu JATINDRA NATH BABU: I move that in Schedule XVI, rule 70, proviso, line 4, after the word "Corporation" the words "or any person than the owner" be inserted.

This clause provides that the Corporation shall have the right to make use of certain spaces in *bustees*, but it is provided that by such use the Corporation shall not acquire any right of ownership——

Mr. S. W. GOODE: May I be permitted to intervene at this stage and say that we are prepared to accept the proposal in a slightly modified form? I would omit the words "the Corporation" and insert the words "any person" therefor, because that expression will cover the Corporation.

The motion was put in the following modified form and agreed to:—

"That in Schedule XVI, rule 70, proviso, line 4, for the words 'the Corporation' the words 'any person' be substituted."

Babu AMULYA DHONE ADDY: I move that—

"In Schedule XVI, rule 72, line 4, the words 'and court-yard' be omitted."

"In Schedule XVI, rule 71, lines 5 and 6, the words 'and court-yard' be omitted."

These motions are practically the same. It appears that an invidious distinction has been made between huts and masonry buildings or rather

between the poor and the rich. It will also appear that under rule 71 the area of the court-yard is to be one-fourth of the total area covered by the hut and the court-yard; but in the case of the masonry building, as will appear from rule 29, it is to be one-fourth of the area of the rooms and verandahs abutting on the court-yard. So it will appear that in the case of a hut, the area of the court-yard is to be more than that in the case of a masonry building, in which it is only the area of the rooms abutting on the court-yard which is taken into consideration in ascertaining the area of the court-yard; but in the case of the hut it is not only the area of the structure abutting on the court-yard but also in addition the area of the court-yard which is taken into consideration. Therefore, in the case of a hut, the area of open space which is required to be kept as court-yard is more than that in the case of the masonry building. It will further appear that in the case of a masonry building there are relaxations, as will appear from the proviso; but in the case of a hut, there are no such relaxations. On the contrary, however, there is a restriction, as will appear from proviso to rule 71, that a court-yard hut cannot be more than one-storeyed, but in the case of a masonry building it can be four or five storeyed. So, as regards the height of a hut, there are restrictions, the area of the court-yard of a hut is more than that in the case of a masonry building and there are no relaxations regarding the court-yard of the hut, whereas there are relaxations in the case of a masonry building. So, I beg to submit that there appears to be one law for the rich and another for the poor.

Mr. S. W. GOODE: Mr. Addy's analogy is specious but it is not strictly apposite, because in the case of masonry buildings it is not merely the open space provided by the court-yard which the rules require, but open space is required to be left at the side and the back of the building as Mr. Addy is aware. The case of a masonry building cannot, therefore, be strictly compared with that of a hut. In the case of a masonry building, moreover, you are required to keep one-third space open to the sky, but in the case of a hut, you are required only to keep one-fourth of the space open to the sky. There is, therefore, as far as I can see, no particular reason why in calculating one-fourth space you should omit the court-yard itself from the area to be divided by four. The object is to improve the insanitary condition of these court-yard huts, which is known to any one who has inspected them in Calcutta. I must, therefore, oppose these amendments.

The motions were then, by leave of the Council, withdrawn.

The following amendment standing in the name of Babu Jatindra Nath Basu, was, by leave of the Council, withdrawn:—

"That in Schedule XVI, rule 79, line 3, after the words 'brick on edge' the word 'tiles' be inserted."

The following amendment standing in the name of Raja Reshee Case Law was, in the absence of the member, deemed to be withdrawn:—

"That in Schedule XVI, rule 82(2), be omitted."

The following motion standing in the name of Babu Jatindra Nath Basu was, by leave of the Council, withdrawn:—

"That in Schedule XVI, rule 82(2), lines 4, 5 and 6, the following words be omitted, namely:—

'and every such plan, section and specification shall be signed by the licensed building surveyor who has prepared the same as required by section 324.'"

The following motions standing in the name of Raja Reshee Case Law were, in the absence of the member, deemed to be withdrawn:—

"That in Schedule XVI, rule 88(3), line 3, the words 'or building line' be omitted."

"That in Schedule XVI, rule 88(4) be omitted."

The following motion standing in the name of Babu Rishindra Nath Sarkar was, in the absence of the member, deemed to be withdrawn:—

"That in Schedule XVI, rule 92, last line, the words 'portion of the' be omitted."

Mr. D. J. COHEN: I move that in Schedule XVI, at the end of proviso to rule 92, the following be added, namely:—

"unless it is otherwise permissible under this schedule."

I do not suppose that Government will have any objection to accept this amendment. It is the present practice.

Mr. S. W. COODE: We accept this amendment.

The motion was put and agreed to.

Babu JATINDRA NATH BASU: I move that in Schedule XVI, rule 94(a), line 1, after the word "roof" the words "so as to raise or lower the height thereof" be added.

This amendment relates to alterations of or additions to, an existing building. What I propose is that when the floor of a room is altered, such as, instead of concrete flooring one changes it to patent-stone flooring or makes alterations like that, why should he have to go before the Corporation to obtain sanction. It is only when he raises or lowers the height that it may be necessary for him to obtain sanction. I do not think that in such petty matters one should have to go before the Corporation for sanction.

Mr. PRESIDENT: Mr. Basu, will you move the other cognate amendment, namely, No. 810?

Babu JATINDRA NATH BASU: I move that in Schedule XVI, at the end of rule 94(*1*)(*b*)(*ii*), the words "if the height is raised or lowered" be inserted.

It is practically the same as the previous one. The first relates to alterations to a roof and this to alterations to a floor. The principle is the same.

Mr. S. W. COODE: This rule (94) says that in the case of certain changes made in the structure of the building no plans are required; but in the case of certain other changes or alterations which may be made plans must be submitted. Well, I would ask Mr. Basu, how are we to determine whether the work which it is proposed to execute will fall under this section or not, unless some plan is submitted by which we can judge. There must be a border line which the expert department of the Corporation should determine. This question of restriction to alterations and necessary repairs has always presented the very greatest difficulty in the past and it is essential that what is termed necessary repairs should be very clearly and precisely defined in this rule. Moreover, it has stood the test of time, and I submit it is essential that it should be made in the form in which we have put it.

The motions were then put and lost.

The following amendment standing in the name of Babu Jatindra Nath Basu was, by leave of the Council, withdrawn:—

"That in Schedule XVI, rule 94(*1*) (*b*) (*i*) be omitted."

Babu JATINDRA NATH BASU: I move that in Schedule XVI, at the end of rule 94(*1*) (*d*), the following be added, namely:—

"if, by reason of such construction, the provisions of rule 25 of this schedule are not complied with."

What I propose is that it will not be necessary to obtain the sanction of the Corporation to the construction of an internal wall or partition, if by such construction rule 25 is not interfered with. Rule 25 relates to the height and cubical space of rooms. If this rule is complied with, it will not be necessary to go before the Corporation for sanction to partition wall. In constructing most of the modern buildings in Calcutta, people do not have partition walls but have large halls. When tenants come in, they erect these partition walls to suit their convenience. In a residential building they have partition walls to suit their convenience. In an office building they have small cubicles for the heads of departments and a separate space set apart for clerks. If for the erection of partition walls like those in office buildings and residential houses a person has to go before the Corporation, he will have to do it whenever he alters the partition, and this will involve a great hardship. The clause in the Bill provides that the construction of an internal wall must be made with the sanction of the Corporation. What I have provided in my

amendment is that when such construction interferes with the cubical space of the room, that is, the height and the size, sanction will have to be obtained, but not otherwise.

Mr. S. W. GOODE: My argument would be just the same as that which I had advanced a moment ago. Suppose a person proposes to demolish an internal wall or partition and to construct another at a slightly different place and in some slightly different position; he will thereby alter the dimensions of the two rooms which will be formed by this partition. That being so, it is necessary to have some authority to determine what would be the result of the changes that he is going to make. It should not ordinarily be left to the party to decide whether he is altering the cubical dimensions of the room so as to bring them below the limit prescribed under the Act. That is a function which the Corporation must perform and it is essential that they should have the power of examining plans. I am sorry to oppose Mr. Basu on a matter which, I have no doubt, he will regard as trivial. But I have had to work these rules, and in my opinion this provision is very essential.

The motion was then put and lost.

Mr. D. J. COHEN: I move that in Schedule XVI, rule 96(2), for the words "some substantial increase" in line 8 to the end of the rule, the following be substituted, namely:—

> "in the open space already forming, part of the site though such space as so increased still falls short of the open space required to be kept under the provisions of this Schedule."

This clause relates to relaxations in the case of additions to, or alterations of, buildings, and not in the case of entire new constructions. The clause, as framed in the Bill, will only give relief in those cases where a substantial increase is made in the area of the open space prescribed under the Schedule. Suppose there is a case in which the owner wishes to pull down and rebuild a bathroom occupying a very small space, will he be asked to increase the open space by a substantial amount? I think——

Mr. S. W. GOODE: May I intervene at this stage? I may suggest an amendment which I think will meet Mr. Cohen's point. He is afraid that some substantial increase on the minimum space prescribed under these by-laws will be required before this rule come into operation. I would suggest that after the words "open space" in the last but one line of rule 96(2), for the words "prescribed under this Schedule," the words "belonging to the premises" be substituted.

If I understand Mr. Cohen rightly, he wishes that although a premises may already have a area which is less than the minimum area prescribed under these rules, still if some substantial increase is made, this concession may be allowed. We accept that principle, and I think the amendment I have proposed will meet Mr. Cohen's point.

The motion was then put and agreed to in the following modified form:—

"That in Schedule XVI, rule 96(2), lines 9 and 10, for the words 'prescribed under this Schedule' the words 'belonging to the premises' be substituted."

The following amendments were not put as they were covered by previous decisions of the Council:—

Dr. A. SUHRAWARDY to move that in clause 5(*a*) after the word "Councillors" the following be inserted, namely:—

"One-fourth of whom shall be Muhammadans."

Mr. RAZAUR RAHMAN KHAN to move that in clause 5(*a*) for the word "sixty-seven" the word "eighty" be substituted.

Raja RESHEE CASE LAW to move, if motions Nos. 10 and 11 be carried, that in clause 5(*a*) for the word "sixty-seven" the word "seventy-six" be substituted.

Babu SURENDRA NATH MALLIK and Babu AMULYA DHONE ADDY to move, if motions Nos. 10 and 11 be carried, that in clause 5(*a*) for the word "sixty-seven" the word "seventy-two" be substituted.

Raja RESHEE CASE LAW and Babu JOGENDRA NATH ROY to move—

and if the motions Nos. 75 and 76 be not carried,

Babu AMULYA DHONE ADDY to move—

that in clause 5(*a*) for the word "sixty-seven" the word "seventy-one" be substituted.

Dr. PRAMATHANATH BANERJEA to move that in clause 5(*a*), for the word "sixty-seven" the word "seventy" be substituted.

Mr. S. C. STUART-WILLIAMS to move, if motion No. 12 be carried, that in clause 5(*a*) for the word "sixty-seven" the word "sixty-nine" be substituted.

Babu HEM CHANDRA NASKER to move, if motions Nos. 14-16 be not carried, that in clause 5(*a*) for the word "sixty-seven" the word "sixty-nine" be substituted.

Babu JATINDRA NATH BASU to move that in clause 5(*a*) for the word "sixty-seven" the word "sixty-eight" be substituted.

Babu HEM CHANDRA NASKER to move, if motions Nos. 14-16 be carried, that in clause 5, sub-clause (*a*), for the word "sixty-seven" the word "sixty-three" be substituted.

Babu SURENDRA NATH RAY to move, if motion No. 17 be carried, that in clause 6, line 10, for the words "Tollygunge and Garden Reach" the words "and Tollygunge" be substituted.

Babu HEM CHANDRA NASKER to move, if motions Nos. 14-16 be carried, that in clause 6, line 10, the word "Maniktala" be omitted.

Mr. S. MAHBOOB ALEY to move, if motions Nos. 14-16 be carried, that in clause 6—

(*1*) in line 10, the word "Maniktala" be omitted, and

(*2*) in line 11, the words beginning with "and all moveable property now vested" up to the words "Maniktala Municipality" in line 15 be omitted.

Babu SURENDRA NATH MALLIK to move, if motions Nos. 10 and 11 be carried, that in clause 6—

(*1*) in line 10, after the word "Maniktala," where it first occurs, the word "Cossipore-Chitpur" be inserted, and

(*2*) in line 15, for the words "the Maniktala Municipality" the words "the Maniktala and Cossipore-Chitpur Municipalities" be inserted.

Babu HEM CHANDRA NASKER to move, if motions Nos. 14-16 be carried, that in clause 6, lines 11 to 15, the words "and all moveable property now vested in or held in trust for and all sums due at the commencement of this Act, whether on account of rates, tolls, taxes, and fees or otherwise, to the Commissioners of the Maniktala Municipality," be omitted.

Mr. S. C. STUART-WILLIAMS to move, if motion No. 12 be carried, that in clause 6, line 15, for the words "Maniktala Municipality" the words "Maniktala and Garden Reach Municipalities" be inserted.

Mr. ABDUR RAHEEM to move, if motion No. 106 be carried, that in clause 18(*1*), line 3, after the word "person," the words "who is not a Muhammadan" be inserted.

Rai Dr. HARIDHAN DUTT Bahadur to move, if motion No. 84 be carried, that in clause 18(*1*), line 3, after the word "person" the words "who is not of the female sex" be inserted.

Babu SURENDRA NATH MALLIK to move, if motion No. 130 be carried, that in clause 18(*1*), second proviso, line 1, the word "also" be omitted.

Babu AMULYA DHONE ADDY to move that clause 21(*1aa*) with its proviso be omitted.

Mr. SYED NASIM ALI to move that clause 25 be omitted.

Raja RESHEE CASE LAW to move that in clause 37(*c*), line 2, after the word "capacity" the words "against the Corporation, except when such person acts on his own behalf" be inserted.

Rai MAHENDRA CHANDRA MITRA Bahadur to move that clause 391(*l*)(*a*) be omitted.

Maulvi HAMID-UD-DIN KHAN to move that clause 391(*l*)(*c*) be omitted.

Babu JATINDRA NATH BASU to move that in Schedule XIV and at the end of rule 22, the following proviso be added, namely:—

"Provided that when the Corporation is satisfied that by reason of want of means or otherwise the owner is unable to comply with such notice the Corporation may effect such conversion at their own cost and may make no charge or charge to the owner a sum not exceeding 4 per cent. on the cost, such sum being realized at the same time and in the same manner as the consolidated rates."

The Council was then adjourned for 15 minutes.

After the adjournment.

Mr. PRESIDENT: I am asked to announce that the Finance Department have agreed that the travelling allowance rules of members shall be relaxed in respect of the break from the 8th to the 14th instant.

Members will be permitted, so far as this break is concerned, to charge at the usual double rates, it being treated as if it were a break of over seven days.

The Hon'ble Sir SURENDRA NATH BANERJEA: I beg to move that the Calcutta Municipal Bill as settled in Council be passed. In making this motion I desire on behalf of Government to thank Mr. Tindall and the Legislative staff under him for the valuable services which they have rendered in this connection, and I say this that but for these services the Bill would not have reached the stage at which it now is. It would have been a difficult matter to have passed the Bill at this session of the Council. May I also add that I desire to thank my hon'ble friend, Mr. Mallik, the Acting Chairman of the Corporation, for the great help he has rendered us in piloting this Bill through the Select Committee and the Council.

It is after 25 years that the Calcutta Municipal Bill has now been thoroughly revised and the revised measure is about to be placed on the Statute Book. In the meantime vast and stupendous changes have taken place in our political and municipal ideals and in our sanitary needs and requirements. The India of to-day is not the India of the last year of the last century when the Calcutta Municipal Act was passed.

In the meantime a silent and bloodless revolution has been effected: we have felt here the full impact of those world-forces which are silently and steadily transforming the mind of humanity. The unchanging East has given place to a changing Orient, radiant with hope and palpitating with a new life, and the Government of India Act of 1919 is the visible, the outward symbol and expression of that mighty change. The preamble of the Act declared that responsible Government to be attained by progressive stages was the end and aim of British rule in India. The whole machinery of Government has to be transformed to meet the new situation, and municipal administration is but a part of the machinery of Government. Self-government in all its various parts must form a consistent, a compact, and homogeneous whole, each part fitting into the other and acting and reacting upon one another, and strengthening one another by their mutual interaction.

The Bill we have before us is the first definite endeavour made to place the municipal administration of a great city in this province on a line with the Reforms, and in the fitness of things we have begun with the Corporation of Calcutta, the greatest city in India and second in the Empire. The Bill as amended by this Council deepens and broadens the principles of the Bill as it emerged from the Select Committee. Let me go somewhat into the details of the changes that have been made. They for the most part affect the constitutional features of the Bill. The number of municipal commissioners, they will now be called Councillors, has been raised from 80 to 90 so as to provide adequate representation for the added area. We have allotted to the added area 16 Councillors, 7 for Cossipore-Chitpur, 5 for Maniktala, and 4 for Garden Reach. We have taken away 6 Commissioners from Calcutta, I hope the patriotic citizens of Calcutta will not mind this reduction. I am sure they are prepared to make this sacrifice for the benefit of those who are going to be included within their comprehensive fold. That is however not the only change that has been made in this Council. The number of nominated Commissioners has been raised from 8 to 10; the former percentage of nominated Commissioners to the entire body was one-tenth, it will now be one-ninth; a slight increase which was necessary in order to meet the vast and complicated interests, divergent and often conflicting, with which we have to deal but the discretion of Government has been fenced round by a statutory obligation of an important character. In making these nominations it will be the duty of the Government to secure the representation of minorities, of backward classes, of labour; it will also include experts. But one of the most important and far-reaching changes that have taken place affects the constitution of the district councils. These district councils have now received a statutory recognition which they had not before. Sir, as I contemplate the future expansion of local self-government in this Imperial city—it still continues to be Imperial, notwithstanding the fact that it has ceased to be the

capital of the Indian Empire, by reason of its pre-eminent superiority—intellectual and otherwise—over the other provinces—as I contemplate the future expansion of local self-government, I repeat the phrase, in this Imperial city, it seems to me that these district councils will be the centres, the *foci*, the *nuclei* of this expanding movement, something like the boroughs that you have in England, something like the union boards that we have in the rural areas. From them as centres the civic spirit will grow and expand until it includes in its comprehensive sweep the whole of the area from Calcutta to Barrackpore. It is a matter of the first importance and I appeal to the Chairman of the Corporation that substantial powers should be conferred on these district councils. I trust rules will be framed - and provision made in the Bill for rules—which will make it possible for the Corporation to delegate important powers to these district councils so that our friends in the added area may not feel the pangs of annexation, but may rejoice in the new bonds of brotherhood. I also trust, and here again I desire to make an appeal to my friend, the Acting Chairman, who is so sympathetic towards these bodies, that he will be generous so far as financial resources are concerned in dealing with the added area. I desire to remind him in fact, I got the information from him and all else whom it may concern, that when the suburban area was added in 1888, the Calcutta Corporation, financially speaking, did more than the statutory obligations which rested upon it demanded. I trust this chapter in the history of the Corporation will be repeated in their dealings with the added area.

Passing on now to other matters in regard to which there have been changes let me call attention to the very great advancement which is embodied in the Bill by the removal of the sex disqualification. The honour and the credit of that belongs to this Council. But when the votes are analysed, Sir, the honour and credit will be found to belong to you. You Sir, decided the political fate of the womanhood of this city, and I am reminded of a fact in the history of the Reforms movement of 1832; history tells us that the Reforms were passed in Parliament by one vote; we have improved upon history, here women have got their vote, not by a majority of one vote, but by the casting vote of the President. I feel that we have acted properly and done justice, and I desire to tell my friends, you who are within the sound of my voice—my friends of the conservative creed—that unless, in the onward political march you have begun, you take along with you the womanhood of your race, there is not the slightest chance of your being successful or your entering the promised land of freedom. You must take the women with you in all your activities, be they social, political or domestic; then and then only can the nation prosper.

Along with this advanced measure the cause of primary education has received a stimulus, thanks to the patriotic initiative of my friend, the Acting Chairman of the Corporation; he has thrown himself heart

and soul into the movement and well may he, as one of the pioneers of the national movement in Bengal. The Bill provides for the formation, if the Corporation so wish it, of a statutory committee in connection with primary education. Furthermore, the Bill imposes a statutory obligation on the Corporation to spend at least one lakh of rupees every year on primary education. I am sure, Sir, an obligation of this kind will gather strength as the years roll on. I feel certain that some future Chairman—long may my friend be spared to hold the office of Chief Executive Officer, to which he is bound to be appointed—will be able to tell the citizens of Calcutta that not one but fifteen lakhs of rupees are spent every year for this purpose after the model of Bombay.

Lastly, I come to the thorny question of communal representation. Here I feel that I tread upon delicate ground, that I must speak with caution, I was almost going to add, with trepidation. But, Sir, whatever might be thought of my conduct in regard to the compromise, I say this, that I still adhere to my own views in this connection, that I regard communal representation as unsound in principle and hurtful in practice. But then it might be asked, why did you accept the compromise? I did so in order to avert a defeat; if we were defeated what would have happened? We were bound to be defeated, having regard to the votes that were recorded. The result would have been that communal representation for my Muhammadan fellow-countrymen would have found a permanent place on the Statute Book. Now it has only a transitory place there, it will subsist for nine years, after that it will automatically disappear. And what is more, Government and the Council consisting of Hindu, Muhammadan and European representatives are pledged to the view that it is only transitory and after this period the system of general electorate will come into force.

I do not think I ought to detain the Council at any further length. My friend reminds me that I should have referred to the principle of one man, one-vote. That also is a great advance. We have a number of pocket boroughs, I had 11 votes myself, not one. [A voice: "Landlord."] I am very glad my friend has given me an opportunity of dissipating a misapprehension under which he labours; I had 11 votes not as a landlord but as President of the Council of Education of the Ripon College, and the Ripon College is now a public institution and pays a large sum in the shape of rates. These 11 votes are all recorded in favour of Rai Dr. Haridhan Dutt Bahadur. I am very glad that he is against the system of plural voting, but he must remember that he got in largely through plural voting. I need not detain you any longer. To-day is a momentous day in our annals. Bear in mind that we are making history, determining for many years, it may be for all time to come, the form of the administration of this great city. Whether we have risen to the height of our responsibility, it is not for us to say. History will judge. What I claim is that we have done our best according to our lights, and

that we have sought to establish in this great city the essential principles of democracy, the government of the people, by the people and for the people. We have broadened the franchise, we have enfranchised the womanhood of Calcutta, we have relaxed the fetters of Government control, we have provided for sanitary conditions which, I hope, will improve the health, promote the happinness, and add to our civic amenities. I do not claim that the Bill is perfect; like all human systems it must have its defects and blemishes, which time willl reveal and the wisdom of our successors remove; but this Bill, such as it is, I commend to the approving judgment of my fellow-citizens and of that larger public interested in the progressive development of self-governing institutions. I cannot, indeed, promise to myself an immediate welcome for it; for the air is surcharged with the elements of mistrust and suspicion. But time is the great healer. Truth, says the Latin proverb, is the daughter of time, (*veritas est filia a tatis*) and I feel confident that, as the years roll on and things resume their normal condition, the spirit of suspicion will disappear and our work will be appreciated, if not on its merits at any rate as a distinct effort to enthrone the popular will in the government of this city.

To me, Sir, the Bill affords a matter for personal solace and gratification. To me it means the fulfilment of one of the dreams of my life. Ever since 1899 I have lived in the hope of witnessing the re-birth of my native city, robed in the mantle of freedom. I thank God that it has been vouchsafed to me to have had some share in achieving this consummation. I have endeavoured to embody in this Bill the principles which I preached and for which I lived and worked, and now an unspeakable sense of gladness fills my soul—the truest antidote to the calumny and virtuperation to which I am so often exposed. In the course of the debate many hard things have been said, many hard knocks have been received. I hope they will not be remembered. Let us emerge from this Council Chamber rejoicing at the work that we have done, forgetting and forgiving with tolerance and charity for all who have criticized us. (Hear, hear!) I appeal to the citizens of Calcutta to co-operate for its success which, when achieved, will be the proudest monument of their civic spirit and the strongest justification for that full measure of responsible government to which we all aspire and which will be the crowning reward of the labours of this and of successive Legislative Councils. (Applause). Let no party spirit mar the fruition of this great object.

Rai JOGENDRA CHUNDER GHOSE Bahadur: Sir, I was one of those who, with the Hon'ble Sir Surendra Nath Banerjea, resigned our seats in the Calcutta Corporation when the Mackenzie Act was passed. He and I were true to our promise not to enter the Corporation until that obnoxious Act was repealed. It was, therefore, with great delight that I welcomed the introduction of the Calcutta Municipal Bill by Sir Surendra Nath, and to some extent I also participated in his triumph on this

occasion. Sir Surendra Nath was pleased to ask me to help him in carrying through the Council the contentious question of communal representation, the question of mixed electorate and other contentious matters which were in the original Bill. I gave my humble and whole-hearted support to him, and the objections of my Muhammadan friends on the ground of communal representation were hopelessly beaten in this Council. Sir, it has been a great disappointment to me for the shape that the Bill has now taken, and it is with great pain that I speak against a measure from which so much was expected and upon which so much thought and labour was expended.

My objections to the Bill are four in number. First, in the original Bill Cossipore-Chitpur and Garden Reach were not included; now it includes Cossipore-Chitpur, Garden Reach as well as Maniktala—an enormous area. Sir, even now the Corporation is not in a position to meet its statutary obligations. We do not get filtered water in the first floor; unfiltered water not unseldom fails us; was it wise to take the responsibility of this vast area upon you? You are all aware of the large debts of the Corporation, and you are also aware that the Bidyadhari river is silting up and more than one crore of rupees will be required for our new drainage. This step of increasing the liabilities and obligations by adding to the town of Calcutta this vast area is fraught with very great danger to the population of this city. My next objection is that in the original Bill there was a mixed electorate; now our Hon'ble the Minister has withdrawn that and given us communal representation—a measure against all principles of statecraft, a measure which will lead to great danger in the future both to Hindus and Muhammadans. I have already given my reasons for opposing it, and I do not wish to dwell upon it now. My next point is that in the original Bill there was a provision about preventing and regulating cow slaughter. Our Hon'ble the Minister thought it right to take out the whole of the provision——

The Hon'ble Sir SURENDRA NATH BANERJEA: I rise to correct a mistake. I must point out that it was not in the original Bill. It was in the Bill as amended by the Select Committee.

Rai JOGENDRA CHUNDER GHOSH Bahadur: It was before us as settled by the Select Committee. It has been taken away by the Hon'ble the Minister here, and with it has been taken away the power of regulating the slaughter of cows and calves. Sir, I am not a master of words like the Hon'ble the Minister, but I can tell him that this has gone deep to the hearts of the Hindu people of this country.

My next objection is that one upon which Sir Surendra Nath Banerjea has taken great pride, namely, one-vote for one-man. I want one-vote for one-man for the permanent resident population of Calcutta, but by the provisions of this Bill we have given votes to the fleeting population of Calcutta who outnumber by ten times the resident population of this

city; you have taken away the control of the city from us, we, the Hindu and Muhammadan population, the resident population of the city, are nowhere, and we shall be swamped by the fleeting population of other provinces, of other countries, Japanese and Chinese; you have taken away from us our own city; you have taken away from us our capital city; we cannot feel the pride which you feel in our own ruin. Upon these grounds I say the Bill is a menace to the population of Calcutta.

Babu AMULYA DHONE ADDY: I beg to give my fullest support to the Bill as amended by this Council. Sir, when this Bill was introduced here and especially by the Hon'ble the Minister in charge of Local Self-government, who is really the father of agitation for Home Rule for India, I was under the impression that this Bill would be an ideal one, but I am sorry to find that it has still certain defects. I admit, Sir, that the existing Act is a highly defective one. I admif that material improvements have been made in the Bill. I admit that *bustee*, street, and building regulations have been materially improved. I admit that steps have been taken under which the Corporation will be in a position to improve the quality of milk, oil, and other food-stuffs, I also admit that the Corporation is going to be authorized to establish veterinary charitable dispensaries, dairy farms, etc., I also admit that the constitution provided for the Corporation of Calcutta is going to be materially improved. Under the existing Act there are three municipal authorities. But under the Bill the Corporation will be the supreme authority. Under the existing Act th eChairman is a municipal authority; he is not bound even to accept the suggestions of the Corporation; but under the Bill as amended by the Council the Chairman will be nothing but the Executive Officer of the Corporation, and is bound to obey the orders of the Corporation. But, Sir, notwithstanding all these improvements, I beg to submit that injustice has been done to 4 classes of persons. The landholders of Calcutta have been exercising their right of plural voting since 1888, but though the franchise has been lowered and extended even to the women of ill-fame—

Mr. PRESIDENT: I think it is not quite fair to use the words "women of ill-fame" there are men also of ill-fame. I hope you will withdraw that expression.

Babu AMULYA DHONE ADDY: I beg your pardon, Sir. I withdraw the expression. Though the franchise has been lowered and extended but the right of plural voting which has been enjoyed by the landholders since 1888 is going to be abolished. Then, Sir, injustice has been done to the Indian merchants and traders of Calcutta. Though the number of seats allotted to the Bengal Chamber of Commerce has been increased, I am sorry to say that no seat has been allotted to the Bengal National Chamber of Commerce. Thus invidious distinction has been made between European merchants and traders and Indian

merchants and traders of Calcutta. I also find that injustice has been done to the non-Muhammadans of Calcutta, and though the Muhammadans contribute only one-tenth of the total municipal revenue of Calcutta, 15 seats have been allotted to them. It is a case of glaring injustice to the non-Muhammadans of Calcutta. I also find that injustice has been done to the poor infants of Calcutta. The Corporation has not been authorized to prohibit or even to restrict the slaughter of calves or pregnant cows, though it was with a view to increase the supply of milk, the dearth of which is well-known to everybody. The rate of infant mortality in this city is one of the heaviest in the world. Notwithstanding these cases of injustice, I must say that material improvement has been made to the Bill and, Sir, I may be allowed to say that most of the suggestions of the Corporation as well as of my humbleself have been accepted by the Government; and I take this opportunity of thanking from the bottom of my heart Mr. Goode for his having kindly given so patient a hearing to our suggestions and for accepting those suggestions which appeared to him to be reasonable.

I have pointed out the defects, because I am strongly of opinion that these are the defects of the municipal law as it is going to be enacted; and I hope and trust that in course of time the Hon'ble the Minister in charge will be convinced of my arguments and will introduce a Bill for the amendment of the law. Sir, I have the greatest confidence in him as he is my political *guru* and it is through his exertions that the municipal law has been materially improved. Sir, with these remarks I strongly support this Bill.

Maulvi EKRAMUL HUQ: I rise to associate myself with my hon'ble friends who have supported the Bill as it has emerged from the legislative anvil, and I congratulate the Hon'ble the Minister that his labours have come to a successful close. The Hon'ble the Minister, I hope, will allow me to disagree with him and to say that so far as the question of communal representation is concerned—though it might or might not be my view—it is the view of the whole Muhammadan community, that it is absolutely necessary for them to have communal representation not only now but for a long time to come, and it is not only essential in the Calcutta Corporation or in this Council, but also in every department of administration and in every self-governing body, in the lower rungs of the ladder.

I am afraid I cannot agree with my hon'ble friend Babu Amulya Dhone Addy, when he says that the claims of the Muhammadan community have been overrated and by giving them 15 seats injustice has been done to the non-Muhammadan community. If we had considered the matter fairly and carefully, I am certain that he would have thought and would have said, that a great injustice has been done to the Muhammadan community instead, when they have been granted only 15 seats out of a total of 90, though they form a very large per cent. of the people of Calcutta. Is it not, Sir, that the Hindu community as well as the

Muhammadans are out together to claim *swaraj*, and is it not that *swaraj* does mean that every community will have the power to guide their own destiny? or, is it that a particular community which happens to be at the helm of the affairs of this country should be allowed to continue to impose their will upon the other weaker communities? If Mr. Addy and others in the Council want *swaraj* of the latter kind, I am afraid, some of the members of my community may with justice, say "good-bye to it." I hope the members of the Hindu community should not have cramped and narrow views, but should attain the breadth of vision that alone will enable them to engender confidence and to get to the goal. With these words, I again congratulate the Hon'ble the Minister and resume my seat.

Dr. PRAMATHANATH BANERJEA: Some of the features of the Bill are excellent; so far as the provisions of this Bill represent an improvement in the Act which it is about to replace, I desire to accord my whole-hearted support to the measure. But there is one provision in the Bill which I cannot but regard as detrimental to the best interests of the country—I mean the introduction of the principle of communal electorates. Some of our Muhammadan friends here may claim it as a victory for their cause but there are many patriotic and sincere Muhammadans outside this Council—men who have served their country and suffered for their convictions—who take a different view of the matter. Now, however, that the system has been adpoted, I hope that Hindus and Muhammadans will unite for the common good and make the administration of the city a success.

Then again, there there are many provisions in the Bill which confer very wide and general powers on the Corporation. I have opposed some of these provisions, but in doing so it has not been my intention to hamper the municipal work of the city. My real object has been not to prevent the possession of powers by the Corporation but to protest against the abuse of authority, which has been so frequent and flagrant in the past. It remains now for me to express the hope that in future the exercise of these powers will be so regulated as to cause less hardship to the community, particularly the poorer and weaker sections of it.

Sir, there is one more important question to which I wish to refer here for a moment. The activities of the Calcutta Corporation and its sister institution, the Calcutta Improvement Trust, have very adversely affected the small householders of Calcutta. Thirty or forty years ago, Indian Calcutta consisted very largely of houses owned by men of small means but now whenever a small street has been laid out, the small owners have been driven from their homes and been supplanted by the capitalist proprietors. I find there is a strong feeling in this Council against landlords. But members fight shy of the word "capitalist." And yet many of the difficulties of Calcutta are connected intimately with

the rise of a new capitalist class. There may be good grounds for the existence of a bitter feeling against landlords, but it ought to be known to all that the landlords of the older type were much better than the new class of speculator capitalists into whose hands the properties of the city are gradually and steadily passing. The economic importance of small proprietorship cannot be overestimated. In England and many other advanced countries where capitalism has proceeded far, attempts are now being made to reintroduce the system of small proprietorship. Some hon'ble members of this Council are very fond of displaying their knowledge of economics. I wish this knowledge was deeper and wider than it actually is, and I wish these gentlemen were able to enlighten us on the most up-to-date economic views on this subject. Some other members have often dilated upon justice. But this justice ought to be available to the poor and the weak. I may be permitted to add, justice, to be real, must be tempered with mercy.

In conclusion, my earnest appeal to the legislators and city fathers of Calcutta is: Improve the city by all means, but, pray, do not improve the small holdings out of existence. Let the real welfare of the inhabitants of Calcutta—and not merely its external beauty—be the aim and object of our legislative or executive action.

Mr. KRISHNA CHANDRA RAY CHAUDHURI: We have heard to-day, on the eve of the passing of the Calcutta Municipal Bill which we consider to be an historical occasion, one of the most stirring and eloquent speeches delivered by the Hon'ble the Minister who has fathered the Bill. He deserves all the encomiums that we can bestow upon him for putting into practice the noble principles of democracy that he has been preaching ever since he entered upon his political life. I do not care to dwell upon his jarring notes that have been sounded to-day by one or two speakers, and I am sure that in the administration of this municipal law the interests of the ratepayers as well as the minorities will be safeguarded, and on that ground and on the ground that the most noble principles of democracy have been put into the Bill by the Hon'ble the Minister, I commend it to the House.

Kumar SHIBSHEKHARESWAR RAY: From this much-abused corner permit me to disabuse the suspicion, if any, of our esteemed leader, regarding our attitude towards this Bill. Whatever it may be, we offer our sincerest thanks for the great care and trouble he has taken, successfully to pilot this important measure through this Council. I also offer him our heartiest congratulations on the realization of his life-long ambition to give shape to the municipal legislation of this city on the principles of democracy and liberalism, for which he always fought. Sir, I take special pride in the fact that when the last Municipal Act was before the Council he and my father worked together for the common good of the country and to-day again he and his friend's son are similarly associated.

It is also a greater pride to me that to-day his efforts are crowned with success.

Mr. J. CAMPBELL FORRESTER: I move that the question be now put.

The Hon'ble the President having ascertained the views of the Council declared the motion carried.

Mr. PRESIDENT: The question is that the Calcutta Municipal Bill, as settled in Council, be passed.

The motion was put and agreed to without a division.

Demand for grant.

The Hon'ble Mr. H. L. STEPHENSON: On behalf of the Hon'ble the Maharajadhiraja Bahadur of Burdwan I move that a sum of Rs. 250 be granted for expenditure under the head "15 (*l*)—Other Revenue Expenditure financed from Famine Insurance Grants."

The reason for this is given in the memorandum as circulated to the members by Mr. Huntingford.

The motion was put and agreed to.

Adjournment.

The Council was then adjourned till 3 P.M. on Wednesday the 14th March, 1923, at the Town Hall, Calcutta.

B. S. Press—10-5-1923—3774J—1,000—F. T. R. and

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TO

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B. G. Press—7-2-1924—415M—1,600—C. G.